

**IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE**

**Present:**

**The Hon'ble Justice Jay Sengupta**

**WPA 25351 of 2024  
Kranti Dewan  
Vs  
The State of West Bengal & Ors.**

**For the petitioner** : Mr. Sakti Pada Jana,  
Ms. Sudipta Pramanik  
.....Advocates

**For the respondent nos. 4&5 :** Mr. N. C. Bihani,  
Mr. Soumya Mukherjee.  
....Advocates

**For the State** : Mr. Supriyo Chattopadhyay Id.AGP.,  
Ms. Sayantanee Bhattacharjee  
.....Advocates

**Heard lastly on** : 26.02.2025

**Judgment on** : 19.05.2025

**Jay Sengupta, J:**

1. The writ petition has been filed by the petitioner, inter alia, praying for setting aside of the decision of the Governing Body of Calcutta Girls' College taken on 11.01.2024 by which the prayer of the petitioner for Child Care Leave (In short 'CCL') for the period from 11.01.2023 to 18.07.2023 (189 days) was rejected and she was directed to refund the salary received during the said period.

2. Learned counsel for the petitioner submitted as follows. The petitioner joined as Assistant Professor in Calcutta Girls' College on 05.03.2018 in the Department of Economics. There are more two Assistant Professors in the said department. It is needless to say that one student admitted in the year 2022, zero students admitted in the year 2023 and Zero students admitted in the year 2024 in the College. The petitioner was conceived in the month of March, 2021. Due to various problems regarding her pregnancy, as per the Doctor's advice, she availed maternity leave for 180 days (12.11.2021 to 10.05.2022). During that period, she birthed twin daughters on 26.11.2021 after surgery. After maternity leave, she joined on 11.05.2022. After the maternity leave was over, the petitioner applied for CCL on 11.05.2022 to look after her infant babies at her residence Siliguri. The petitioner's old aged parents-in-law are suffering various ailments and physically not well. Her husband was staying outside India, The petitioner again applied for CCL on 15.06.2022, 23.06.2022 and 13.07.2022. But the College authority did not respond and subsequently rejected. Finding no other alternative, she availed

Earned Leave for certain period and seven months post maternity leave for her own medical condition. Due to her medical condition and continuous bleeding for delivering twin babies via caesarean section and due to dearth of her family members, the petitioner again applied for CCL on 04.11.2022 for the period from 12.12.2022 to 10.01.2023 and finding no other option, she had to avail such CCL after repeated rejection. Nevertheless, she was taking online classes for her students and she was regularly in touch with her department. Such period of CCL was granted. Due to acute medical problem of her and for giving vaccine of her children, the petitioner could not join on 11.01.2023 and applied for extension of CCL from 11.01.2023 to 21.03.2023 to take care of her two infants aged 13 months old. But the petitioner was show caused for unauthorized absence. She has explained her difficulty in her reply and prayed for joining on 29.04.2023, but not allowed. Finding no other alternative, she came back to her residence at Siliguri and after Summer Vacation, prayed for further extension of CCL upto 18.07.2023. Again, the petitioner applied for CCL for the period from 31.07.2023 to 31.10.2023 on the same reason which was initially not responded. Her application for CCL for the period from 01.11.2023 to 29.02.2024 was approved without pay. After the leave period was over, she joined on 01.03.2024. According to the Rules vide Memorandum dated 18.01.2016 (Page-63), Female employee is entitled for Child Care Leave (CCL) for a period of 2 (two) years i.e., 730 days during the entire period of her service, until eldest two of her children attains the age of 18 years. She can apply three times within a year or apply at a time for one year. The Governing Body of

the College has taken a decision on 11.01.2024, inter alia, that (i) Her unsanctioned leave from 11.01.2023 to 18.07.2023, the competent authority is unable to sanction the said unauthorized leave and she has to pay back the amount which she has received during the said period, (ii) Her CCL from 31.07.2023 to 31.10.2023 has been considered and sanctioned by the competent authority of the College, (iii) Her prayer for leave without pay from 01.11.2023 to 29.02.2024 according to her application dated 11.01.2024 was considered and sanctioned, (iv) She is directed to resume her duty on and from 01.03.2024 and discharging her duties. The Hon'ble Supreme Court, in an identical case (Kakali Ghosh Vs. Chief Secretary, Andaman and Nicobar Administration and Ors.) observed that "In the present case, the appellant claimed for 730 days of CCL at a stretch to ensure success of her son in the forthcoming secondary/senior examinations (10<sup>th</sup>/11<sup>th</sup> standard). It is not in dispute that son was minor below 18 years of age when she applied for CCL. This is apparent from the fact that the competent authority allowed 45 days of CCL in favour of the appellant. However, no reason has been shown by the competent authority for disallowing rest of the period of leave." And held that "In the present case the respondents have not shown any reason to refuse 730 days continuous leave. The grounds taken by them and as held by High Court cannot be accepted for the reasons mentioned above." In view of the humble submissions made hereinabove, the instant writ petition may kindly be allowed by directing the respondent College authority to sanction those 189 days of CCL (from 11.01.2023 to 18.07.2023) to the petitioner and also

by directing the pertinent authorities to release the salaries dues for the period and upto date.

**3.** Learned counsel for the respondent nos. 1 to 3 submitted as follows. The petitioner received her regular salary upto the month of June, 2023 in regular way. Subsequently, due to her unauthorised leave her regular pay packet claim was stopped by the competent authority of the College. Mrs. Kranti Dewan filed the case in High Court vide WPA 25351 of 2024 regarding her unauthorised leave which she has taken during the period 11.01.2023 to 18.07.2023 for CCL without following the proper rule as per C.U. Statutes and Acts. She received her salary for the period from July, 2023 to October, 2023 in the month of November, 2023 from 01.11.2023 to 29.02.2024 the College did not send any claim as the petitioner agreed to take leave without pay. Thereafter, she also received salary for the month of March, 2024 to July, 2024 in October, 2024. The pay packet section has already released the claim of the petitioner for the month of April, 2024 to July, 2024 amounting to Rs.4,03,352/- vide Memo No. 1840-CGA dated 10.09.2024 and further claim of the petitioner from August, 2024 to December, 2024 amounting to Rs.3,94,660/- as arrear claim of the petitioner vide Memo No. 2801-CGA dated 15.01.2025. In terms of the Court's order dated 16.12.2024 the College authority submitted the supplementary pay packet claim of the petitioner for the period from January, 2025 to March, 2025 amounting to Rs.2,36,796/- on 10.01.2025 as usual regular basis. The claim will be released after receipt of salary fund for the next phase of pay packet (January, 2025 to March, 2025) in favour of Calcutta Girl's College. The Higher Education Department,

therefore, has always cooperated and released the claim as decided by the College Authority, being the appointing authority of the petitioner.

**4.** I heard the learned counsels for the parties, perused the writ petition, the affidavits and the written notes of submissions.

**5.** It appears that the petitioner joined as the Assistant Professor in the Department of Economics at the Calcutta Girl's College on 05.03.2018. There were purportedly two more Assistant Professors in the said Department. As per the petitioner, only one student was admitted in the said Department for the year 2022 and no student was admitted for the years 2023-2024. The petitioner conceived in the month of March, 2021. Due to problems related to her pregnancy and as per Doctor's advice she availed of maternity leave for 180 days (12.11.2021 to 10.05.2022). On 26.11.2021 she gave birth to twin daughters after surgery. After maternity leave, she joined back on 11.05.2022. After the maternity leave was over, she applied for CCL to look after her infants at her residence at Siliguri. According to her, her aged parents-in-law were suffering from various ailments and her husband was staying outside India. The petitioner again applied for CCL on 15.06.2022, 23.06.2022 and 13.07.2022. But, the College authorities did not respond and finally rejected the prayer. Finding no other alternative, she availed of earned leave for certain period and seven months' post maternity leave for her medical condition. Due to her medical condition and continuous bleeding for delivering twin children via caesarean section, the petitioner could not apply for CCL on 04.11.2022 for the period from 12.12.2022 to 10.01.2023 and finding no other option, she had to avail of such CCL after repeated

rejection. Nonetheless, she claimed to have been taking online classes for the students and was in regular touch with the Department. Such period of CCL was granted. Due to acute medical problem of hers and for giving vaccine to her children, the petitioner could not join on 11.01.2023 and applied for extension of CCL from 11.01.2023 to 21.03.2023. But, the petitioner was show caused for unauthorised absence. She explained her difficulty in reply and prayed for joining back on 29.04.2023. But, this was not allowed. Finding no other alternative, the petitioner came back to her residence at Siliguri and after summer vacation, prayed for further extension of CCL upto 18.07.2023. Again, the petitioner applied for CCL for the period from 31.07.2023 to 31.10.2023. Her application for CCL for the period from 01.11.2023 to 29.02.2024 was approved without pay. After the leave period was over, she joined back on 01.03.2024.

**6.** According to the Rules vide Memorandum dated 18.01.2016, a female employee was entitled to CCL for a period of two years i.e., 730 days during the entire period of her service, until the eldest two of her children attained the age of 18 years. She could apply three times within a year or apply at a time for one year.

**7.** In spite of this, the Governing Body of the College took a decision on 11.01.2024 holding that her unsanctioned leave from 11.01.2023 to 18.07.2023 would not be sanctioned and she was to pay back the amount that she received for the said period, her CCL from 31.07.2023 to 31.10.2023 was sanctioned, her prayer for leave without pay from 01.11.2023 to

29.02.2024 was sanctioned and she was directed to resume her duty on and from 01.03.2024.

**8.** First, it is not in doubt that the petitioner suffered from some medical condition during and after child birth. Afterall, she had given birth to twin daughters by caesarean section.

**9.** More pertinently, the applicable law provided that the petitioner would be entitled to claim CCL for a period of two years i.e., 730 days during the entire period of service, until the eldest two of the children attained the age of 18 years. She could apply three times in a year or apply at a time for one year. Therefore, there was no reason for the Governing Body of the College not to consider her application favourably and not to sanction 189 days of CCL. The petitioner was well within her limits for claiming CCL.

**10.** In fact, it is not the respondents' case that the petitioner had exceeded the outer limit of 730 days of CCL.

**11.** If the nourishing years of the two infants are not the right time to grant CCL to the petitioner, then one wonders whether the Governing Body of the College was trying to save it for a later period when there may possibly be no need for such leave. Denying the petitioner such leave for the said period would amount to indirectly flouting the applicable law in this regard.

**12.** Therefore, the respondents have failed to show any justifiable reason to deny the claim of the petitioner to the said 189 days of CCL.

**13.** In view of the above discussions and for the balance of convenience, the impugned order is set aside to the extent that the respondent authorities shall sanction CCL for 189 days for the period 11.01.2023 to 18.07.2023 in favour of the petitioner and the appropriate authorities shall release the salaries due to the petitioner for such period, within a period of six weeks from the date of communication of this order, if the same has not been done yet.

**14.** With these observations and directions, the writ petition is disposed of.

**15.** Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

**(Jay Sengupta, J.)**