

1702
2025

MONDAY

Court : 08
Item : DL-43
Matter : FMA
Status : DO
Bench ID : 266291
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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMA 1384 OF 2024
CAN 1 OF 2024

SUMANA CHANDA

Vs.

THE STATE OF WEST BENGAL & ORS.

MR. BRATIN KUMAR DEY, ADVOCATE
MS. ANJANA BANERJEE, ADVOCATE

.....for the Appellant

MS. TAPATI SAMANTA, ADVOCATE

.....for the Respondent No. 7

1. Despite service there is no representation on behalf of the State.
2. The School is represented.
3. The dispute relates to a refusal to grant Child Care Leave (CCL) to the appellant by the Managing Committee of the School on the premise that there is a single teacher for Physical Science in the said School. The other reason, as it appears, relates to availing the CCL earlier for a period of 40 days and, therefore, she is not entitled to a further CCL within a short span of time.
4. The Single Bench proceeded on the basis of the Memo No. 08-ILC/OM-131L/15 dated 13.01.2016 issued by the Higher Education Department (Integrated Law Cell), Government of West Bengal and arrived at the conclusion that while granting Child Care Leave, the leave sanctioning authority should ensure that, not more than one employee (teaching or non-teaching) of a particular Department/Faculty/Office is granted such leave at the same time in order to ensure that there is no disruption or disturbances in the conduct of duties and services.

5. Learned Counsel for the appellant drew our attention to the said Memo dated 13.01.2026 in support of his contention that the said Memo does not apply to a School Teacher but has its applicability to a Government aided College, State aided Universities and other statutory bodies coming under the administrative jurisdiction of the said department.
6. On manifest reading of the said memorandum, *prima facie*, we do not find any incongruity in the submission of the appellant that it is restricted to a Government aided College, State aided Universities and other statutory bodies coming directly under the under administrative control of the said department. However, our attention is drawn to a Memo No. 5560-F(P) dated 17.07.2015, the reference whereof will also be seen in the said memorandum dated 13.01.2016 applicable to the regular female teaching and non-teaching employees of the Government sponsored and non-Government Schools, Boards, District Primary School Council, School Service Commission as well as Panchayat Raj and other local bodies, Undertakings, Corporation, statutory bodies. The said memorandum does not contain any such clause (ix) or (x) putting a fetter in seeking Child Care Leave. However, a clarificatory memo is also issued subsequently on 27.08.2015 restricting the maximum period of CCL.
7. Since the Single Bench proceeded on the basis of a Memo dated 13.01.2016 which does not apply to a female teaching and non-teaching employee of the Government sponsored and non-Government aided Schools, we find that the impugned order cannot be sustained.
8. The writ-petition is remitted to the Single Bench to

decide the same on merit on the basis of the memorandum dated 17.07.2015 as clarified by a memorandum dated 27.08.2015 after affording an opportunity of hearing to the respective parties.

9. The appeal being **FMA 1384 of 2024** and the connected application being **CAN 1 of 2014** are accordingly **disposed of**.

(HARISH TANDON, J.)

(PARTHA SARATHI CHATTERJEE, J)