

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

**The Hon'ble Justice Ranjit Kumar Bag  
& The Hon'ble Subesh Kumar Das**

**Case No –OA-612 of 2016**

**Saswati Chatterjee Vs The State of West Bengal & Ors.**

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p>21</p> <hr/> <p>28.11.2019</p>	<p>For the Applicant : Mr. G.P. Banerjee, Learned Advocate.</p> <p>For the Respondents: Mr. S. Ghosh, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for regularisation of the absence of the applicant from duty during the period from 23, 2015 to June 15, 2015 by grant of Child Care Leave (CCL) and release of arrears of salary in favour of the applicant during the period from May, 2015 to September, 2015 after setting aside letters dated February 16, 2015, March 12, 2015 issued by the Block Medical Officer of Health (BMOH), Patashpur Block Primary Health Centre and letter dated May 15, 2015 issued by the Chief Medical Officer of Health, Purba Medinipur.</p> <p>The contention of the applicant is that she was working as Health Assistant (Female) in the establishment of the respondent No. 5, BMOH, Patashpur Block Primary Health Centre in the year 2015. She submitted application for grant of CCL before the respondent No. 5 during the period from February 16, 2015 to June 15, 2015 (total period of 120 days). Subsequently, she performed duty under changed circumstances till February 21, 2015 and modified her prayer for grant of CCL from February 23, 2015 to June 15, 2015. The prayer for grant of CCL was rejected by the respondent No. 5 on February 16, 2015 and thereafter on March</p>	

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	<p>12, 2015. Even the respondent No. 4, CMOH, Purba Medinipur also refused the leave of the applicant by letter dated May 15, 2015, whereby the applicant was directed to resume duty. By virtue of letter issued by the respondent No. 4 on May 15, 2015, the salary of the applicant was withheld from May, 15 to September, 2015. Ultimately, by the order of respondent No. 3 issued on September 4, 2015, the applicant could join back to duty on September 18, 2015.</p> <p>With the above factual matrix, Mr. Banerjee, Learned Counsel for the applicant contends that the CCL should be granted in favour of the applicant for the period for which she submitted application on the ground of examination of her son and illness of her son at the relevant point of time. He further submits that the period of absence of the applicant from February 23, 2015 to September 17, 2015 must be regularised by grant of any other kind of leave to the credit of the applicant after grant of CCL, so that the applicant may not have to suffer break in service. On the other hand, Mr. Ghosh, Learned Counsel representing the State respondents contends that no departmental enquiry is pending against the applicant till date and as such the authority competent to grant leave may consider for granting leave of any other kind in favour of the applicant as CCL has already been refused both by the respondent No. 5 and respondent No. 4.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the applicant is absent from duty for the period from February 23, 2015 to</p>	

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	<p>September 17, 2015. The prayer was submitted by the applicant for grant of CCL only during the period from February 23, 2015 to June 15, 2015. The remaining period of absence of the applicant must be regularised by grant of either Earned Leave or Commuted Leave if the said leave is available to the credit of the applicant or by grant of Extra Ordinary Leave without pay, so that the absence of the applicant from February 23, 2015 to September 17, 2015 is regularised within specific period of time. Once the absence of the applicant is regularised by grant of leave, the decision will be taken for disbursement of the arrears of salary to which the applicant will be entitled during the period from May, 2015 to September, 2015.</p> <p>The observations made by us lead to give the following directions : The letters issued by the respondent No. 5 on February 16, 2015 and March 12, 2015 and the letter issued by the respondent No. 4 on May 15, 2015 are hereby quashed. The respondent No. 2, Director of Health Services, Government of West Bengal is directed to consider for regularisation of absence of the applicant during the period from February 23, 2015 to September 17, 2015 by grant of CCL from February 23, 2015 to June 15, 2015 and by grant of any other kind of leave to the credit of the applicant and if no leave is available to the credit of the applicant by grant of Extra Ordinary Leave without pay for the remaining period of absence by passing a reasoned order within a period of twelve weeks from the date of communication of the order and take necessary follow-up action for release of arrears of salary of the applicant during the period from May, 2015 to September, 2015, if she is found to be eligible for the said arrears of salary within a period of four weeks</p>	

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Rajib	<p>thereafter.</p> <p>With the above direction, the original application is disposed of.</p> <p>Let a plain copy of the order be supplied to both parties.</p> <p style="text-align: center;"><b>S. K. DAS</b>                      <b>R. K. BAG</b> <b>MEMBER(A)</b>                      <b>MEMBER(J)</b></p>	

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