

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CWP No. 18856 of 2011**  
**Date of decision: 01.09.2015**

Samta Kumari

....Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA**

Present: Mr. K.B. Raheja, Advocate,  
for the petitioner.

Mr. Pankaj Mulwani, DAG, Punjab.

Mr. Gagandeep Singh, Advocate.

**G.S.SANDHAWALIA, J. (Oral)**

Challenge in the present writ petition is to the order dated 09.08.2010 (Annexure P-5) vide which, the services of the petitioner were terminated. The ground for termination which weighed with respondent no. 1 was that the petitioner was appointed on 01.04.2005 (Annexure P-1) as a Computer Teacher/Faculty on a contract basis. She had applied for leave from 01.01.2010 to 20.04.2010, which was rejected on 09.02.2010 (Annexure P-3) but she had never come present.

A perusal of the said order would go on to show that the petitioner was directed to come present with immediate effect. Thereafter, another application was filed for leave for the period from 21.04.2010 to 20.05.2010 apart from the earlier period also. The petitioner was directed to bring the fitness certificate from the Civil Surgeon, Mohali but she never appeared for getting her medical examination there. Thus, a finding was

recorded that the petitioner was not eligible to continue in service according to service terms and rules and her services were terminated from the Punjab Information and Communication Technology Education Society w.e.f. 01.01.2010.

Counsel for the petitioner has vehemently submitted that firstly the service could not be terminated w.e.f. 01.01.2010 and could only be from 09.08.2010. It is further submitted that the petitioner was in a family way and, therefore, could not join duty. After the delivery on 30.11.2009, she had come back to join on 19.01.2010 and due to acute backache, she could not continue on duty. It is thus submitted that there was a valid reason to remain away from duty. It has been further submitted that she was not in a fit position to get the medical certificate from the Civil Surgeon, Mohali and could not appear for medical examination, therefore, she could not obtain the said certificate.

Counsel for the respondent, on the other hand, submitted that she had proceeded on leave without pay from 27.07.2009 and kept getting the same extended on medical grounds. A request beyond 90 days was denied not once but three times and she did not report for duty. Her services were terminated because there was no occasion to renew the contract. The medical certificates which were being sent by her were doubtful and she was asked to go to Civil Hospital for medical check up but she failed to do so. Accordingly, the termination order was passed.

Even it was further submitted that it was only a contractual appointment which was renewed on yearly basis and, therefore, the conduct of the petitioner is to be taken into consideration. A show cause notice had also been issued on 15.03.2010, to which, she had even filed reply and

which fact has been mentioned in the petition itself. Accordingly, it is submitted that the action was well justified.

The appointment was contractual, which provided the following clause:-

*“Your contractual services can be terminated without any notice if your work and conduct is found to be unsatisfactory at any stage. However, either side would have to give one month's notice for the termination of the contract. In case the notice is short of one month, either side would pay/deposit salary in lieu of the remaining period of the month.”*

It is an admitted fact that the petitioner did not join the service for a period of almost one year from the month of July, 2009 till her termination, though she alleges that she had come to work on 19.01.2010 for one day. The respondents had adjusted her by giving her the 90 days benefit and thereafter also, sought to confirm her medical condition by asking her to get herself checked up from Civil Surgeon, Mohali. The said exercise also admittedly was not done by the petitioner to show as to whether she was suffering from the alleged ailment of severe backache on account of which she alleges that she could not rejoin after having been blessed with a child. The order thus, whereby, her services have been terminated only brings an end to the contractual appointment in effect. The argument raised that it could not be with effect from 01.01.2010 is also without any basis. She is not a regular employee and would only be liable to be paid for the month she actually worked and would have no such right for service intervening 01.01.2010 to 09.08.2010.

The order which has been passed does not suffer from any

infirmity or illegality which would warrant interference under Articles 226 and 227 of the Constitution of India. Admittedly, the show cause notice was also issued which was admitted in the petition itself. In such circumstances, the argument that show cause notice should have been issued is also without any substance.

Accordingly, the present writ petition is dismissed.

01.09.2015  
shivani

(G.S. SANDHAWALIA)  
JUDGE