

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

Civil Writ Petition No. 3348 of 2014(O&M)

Date of Decision: January 8 , 2016.

Inderjeet Kaur

..... PETITIONER (s)

Versus

Sri Guru Granth Sahib World University, University Campus,
Fatehgarh Sahib and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Kunal Dawar, Advocate
for the petitioner.

Mr. Daman Dhir, Advocate
for the respondents.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Petitioner prays for release of salary/benefits for the period of maternity leave availed by her from 23.10.2012 to 25.04.2013.

Brief facts are that, petitioner was appointed as a Senior Research Fellow in Sikhism on contractual basis on 13.12.2011 with respondent No.1 – Sri Guru Granth Sahib World University, Fatehgarh Sahib. She submitted an application for maternity leave on 17.10.2012. Petitioner on being informed that there is no provision for grant of maternity leave to contractual/adhoc employees

of the University, submitted another application dated 23.10.2012 for being granted maternity leave without pay. Petitioner was granted maternity leave without pay w.e.f. 25.10.2012 till 25.01.2013. She requested for extension of maternity leave by another three months on 17.01.2013. Her request was accepted and maternity leave without pay was extended till 25.04.2013 (Annexure P6).

Petitioner joined duty on expiry of the leave period. She however resigned from service on 05.09.2013. As she did not give required notice of one month prior to her resignation, she submitted one month's salary in lieu of the notice period.

After a period of about three months, she submitted a representation asking for release of salary for the period of her maternity leave as well as employee's provident fund. However when the dues were not released, she approached this Court for redressal of her grievance. In the present writ petition, claim is restricted to release of the salary for the period of maternity leave availed by her.

Learned counsel for respondents submits that University rules do not provide for grant of leave during the maternity period to adhoc/contractual staff. Benefit under the Maternity Benefit Act, 1961, is also not available to the petitioner as the University is neither a shop or an industrial establishment as per Section 2 of the said Act.

Furthermore, petitioner herself accepted maternity leave without pay. She herself asked for the said concession without pay when she was informed that the rules do not permit maternity leave to contractual/adhoc employees. A project report submitted by the petitioner at the time of her

resignation when evaluated from internal and external expert revealed that she has resorted to plagiarism which is against the established academic principles and ethics. When she was asked to explain her position in the matter, present writ petition has been filed as a counter-blast to the action taken by the University.

Having heard learned counsel for the parties and going through the file, it is apparent that petitioner herself requested for grant of maternity leave without pay as reflected in her application dated 28.10.2012, Annexure P3. Averment that she was pressurized to submit such an application, respondent being in a dominant position, is clearly misconceived and misplaced for the reason that she accepted the same without demure at that time. Petitioner even obtained extension of maternity leave without pay on request. She rejoined her service without any objection or representation for release of salary of the said period. It is only after her resignation that she raised her abovesaid claim.

Without going into the question whether the petitioner is entitled to maternity leave with pay, present is a case where no interference is called for by this Court. Petitioner without demure accepted maternity leave without pay. She asked for and was given extension of maternity leave on the same terms and conditions. Even if it is accepted that she had no choice but to accept the condition at the relevant time, no objection was raised by her thereafter. Petitioner admittedly joined her service after availing of the said maternity leave. At that stage also, she never raised her claim for salary neither she raised any objection qua the action of the respondents. She thereafter, resigned from service on 05.09.2013 for reasons best known to her. Even at the time of her resignation, she did not raise any objection qua the impugned action of the

University in not releasing salary for the period in question. It is subsequently that vide her representation dated 11.12.2013, Annexure P8, she raised claim for salary for the period of maternity leave. Argument that respondent-University was in a dominant position therefore, petitioner never raised any objection, is not acceptable in the facts and circumstances of the case as discussed above.

Accordingly this writ petition is dismissed.

January 8 , 2016.
'om'

(LISA GILL)
JUDGE