

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

**CWP No.7731 of 2013
Decided on : 16.02.2016**

Harpreet Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

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

Present : Mr. B.S. Bajwa, Advocate
for the petitioner.

Mr. Anshul Gupta, AAG, Punjab

G.S. Sandhawalia, J. (Oral)

The petitioner challenges the show cause notice dated 21.12.2012 (Annexure P-10) issued against her under Rule 5 of the Punjab Civil Services Punishment and Appeal Rules, 1970, for going abroad without getting her leave sanctioned and it was proposed that charge-sheet was to be issued. The challenge is also to the order dated 19.03.2013 (Annexure P-11), whereby the Inquiry Officer, thereafter, asked the petitioner to put in appearance, on account of her not responding to Annexure P-10.

It is the case of the petitioner that while working as ETT Teacher, she had applied for leave for a period for 3 years for going abroad, which was sanctioned vide order dated 23.12.2011 (Annexure P-1) passed by the Education Minister. Reference is also made to the leave application filed which had been forwarded to the Block Primary Education Officer alongwith the certificate

dated 04.02.2012 (Annexure P-2) issued by the Head Teacher of the Government Elementary School, Nardu, Block-Patiala.

Counsel for the petitioner has also submitted that Annexure R-1 dated 17.02.2012 would go on to show that the District Education Officer had also admitted that the sanction for leave had already been granted by the Education Minister. It is, accordingly, submitted that the petitioner had been charge-sheeted in spite of the leave having been granted by the competent authority.

Reliance has also been placed upon the information which has been solicited by the father of the petitioner through Right to Information Act, 2005 (Annexure P-6) and the requisite information was supplied as Annexure P-7, wherein the details of the employees who had gone abroad had been mentioned against the information of the grant of Ex-India leave/foreign leave to the employees of the Education Department, in which the name of the petitioner also figures. Accordingly, the relieving report dated 15.05.2012 (Annexure P-8) was relied upon by the counsel for the petitioner.

The case of the State, however, is that the petitioner had applied vide memo dated 17.02.2012, which has also been relied to by the counsel for the petitioner and when it was pending before the higher authorities for consideration, she had gone

abroad without getting her leave sanctioned. It is in such circumstances, she has been charge-sheeted.

Counsel for the State has further submitted that the petitioner has also overstayed the alleged leave period, which was till 15.05.2015 and therefore is further liable to be proceeded against. In view of the interim order dated 10.04.2013, the proceedings in the departmental inquiry had been stayed.

It is not disputed that the petitioner has been asked to join vide letter dated 24.09.2015 by the District Education Officer-respondent No.3. She had also applied for joining on 28.10.2015, but in view of the pendency of the present writ petition and in view of the departmental inquiry which is pending, she had not been permitted to join and the application is now pending before the respondent No.2.

In the opinion of this Court, the issues are to be firstly agitated and sorted out in the departmental enquiry as to whether the leave was properly sanctioned or not as per the requirement of the rules, as disputed questions of fact arise. The petitioner is at liberty to appear before the Inquiry officer regarding the charge-sheet since from the above perusal of the facts, *prima facie* it would be clear that the petitioner apparently sought the sanction from the Education Minister firstly rather than get her case processed from the lower level.

Accordingly, the present writ petition is disposed of with a direction that the petitioner will be permitted to join her duties with the respondent No.2 who will give her a place of posting. The departmental proceedings will continue, thereafter. It will be open to the department to further amend the charge-sheet or issue a separate charge-sheet for the alleged overstay, if required.

With the abovesaid directions, the present writ petition is disposed of.

FEBRUARY 16, 2016

Naveen

**(G.S. SANDHAWALIA)
JUDGE**