

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.16811 of 2017 (O&M)
Date of Decision: 31.07.2017

Moondeep Kaur & others

--Petitioners

Versus

State of Punjab and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Vipin Mahajan, Advocate for the petitioners.

TEJINDER SINGH DHINDSA.J

Petitioners are currently serving as Staff Nurses under the Department of Health and Family Welfare, State of Punjab.

Prayer in the instant petition is for the issuance of a Writ of Mandamus for directing the respondent authorities to grant and sanction to them study leave for a period of one year so as to enable the petitioners to complete the two years M.Sc. Nursing Course.

Counsel submits that the petitioners had acquired the B.Sc. Nursing qualification and thereafter had enrolled for the M.Sc. Nursing two years course in the year 2015. The posts of Staff Nurses having been advertised, petitioners subjected themselves to a process of selection and having successfully negotiated the same, were appointed as Staff Nurses in the year 2016. By that time petitioners had completed one year of the two years M.Sc. Nursing Course from an institute affiliated to the Baba Farid University of Health Sciences, Faridkot.

Counsel contends that as per feedback from the Baba Farid University, the petitioners can complete the remaining course of M.Sc. Nursing up to the year 2019 and accordingly applications were submitted by

the petitioners before the appropriate authority under the respondent department for grant of study leave for a period of one year.

It is argued that the request of the petitioners seeking study leave requires consideration under the Study Leave Rules, 1963 provided in Appendix 20 of the Punjab Civil Services Rules, Vol. I, Part-II. Rule 3 (1) and (5) would be relevant to the issue at hand and read as follows:-

“3. Conditions for grant of study leave-

(1) Subject to the conditions specified in these rules, study leave may be granted to a Government employee with due regard to the exigencies of public service to enable him to undergo, in or out of India, a special course of study consisting of higher studies, specialized training in a professional or a technical subject having a direct and close connection with the sphere of his duty.”

(5) Study leave shall not ordinarily be granted to a Government employee.

(i) who has rendered less than five years service under the Government; or

(ii) who is due to retire or has the option to retire from the Government service within three years of the date on which he is expected to return to duty after the expiry of the leave.”

Rule 5 provides for maximum period of study leave that may be granted at a time during the entire service and is coined in the following terms:-

“5. Maximum amount of study leave that may be granted at a time during the entire service: The maximum amount of study leave which may be granted to a Government employee shall be-

(i) ordinarily twelve months at any time, which shall not be exceeded save for exceptional reasons and

(ii) twenty-four months (inclusive of study leave granted under any other rules) in all during the entire service.”

Counsel submits that even though, the present petitioners have served only for a period of one year approximately in pursuance to their appointment, yet, Rule 3(5) cannot be read in a manner as an absolute bar for the petitioners to be granted study leave. He submits that the word 'ordinarily' employed in Rule 3(5) would have to be construed keeping in view the exigencies of the service of which the petitioners are a member as also the course of study that the petitioners intend to pursue against the backdrop of the job content and responsibilities of the post of Staff Nurse.

It is further submitted that till date no final decision has been taken on the study leave applications submitted by the petitioners and in any case no final decision has been conveyed to them till date.

Notice of motion.

On the asking of the Court, Mr. Avinit Avasthi, learned A.A.G., Punjab accepts notice on behalf of respondents-State. A complete copy of the writ paper book has been furnished to him.

In view of the order that I intend to pass, there would be no requirement for calling upon the State to furnish a written response to the writ petition.

The office order vesting appointment to the petitioners on the post of Staff Nurse has been placed on record at Annexure P-7. In terms thereof the present petitioners have been appointed to the posts of Staff Nurses in the Health Department, Punjab and in the Dialysis/Chemotherapy/Coronary Care and Stroke (CCS) Units. One of the specific terms and conditions of the appointment is that during their entire service the petitioners would discharge their duties only in the afore-noticed units and under the aegis of the Health Department, State of Punjab and that

the petitioners would never be transferred/adjusted out of these units.

It would be within the domain of the appropriate authority under the State Govt. to take a decision as regards sanction and grant of study leave to the petitioners under the relevant rules that have already been noticed here under and against the backdrop of the specific purpose for which they have been recruited i.e. Dialysis/Chemotherapy/Coronary Care and Stroke (CCS) Units.

Be that as it may, the petitioners are certainly vested with a right to be informed as regards a decision on their applications for grant/sanction of study leave.

Against the backdrop of the facts and circumstances noticed herein above as also the submissions advanced by counsel for the petitioners, learned State counsel very fairly undertakes that a final decision on the applications submitted by the petitioners seeking study leave would be taken expeditiously and in any case within a period of two months from today.

In the light of such fair stand taken on behalf of the State, the instant writ petition is disposed of.

It is directed that respondent no.2 i.e. the Director, Health Services, Punjab shall take a final decision on the applications submitted by the petitioners seeking study leave in accordance with law and under the relevant rules governing the issue applicable to the petitioners. A final decision be conveyed to the petitioners within a period of two months from the date of receipt of a certified copy of this order.

It is clarified that the observations made in this order would not be construed as an expression of opinion by this Court on the merits of the claim of the petitioners for grant of study leave.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

31.07.2017

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No