

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

CWP-18197-2013 (O&M)

Date of Decision: 25.10.2018.

Dr. Satinder Kaur

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. S.S. Brar, Advocate,
for the petitioner.

Ms. Sunint Kaur, AAG Punjab.

JITENDRA CHAUHAN.J.

Through the instant civil writ petition, the petitioner seeks direction to the respondents to consider her case for grant of study leave with consequential benefits by way of increments after counting the period of study leave as period spent on duty and for quashing the order dated 27.12.2007 (Annexure P-4A) vide which the representation moved by the petitioner had been dismissed.

It is contended that the petitioner joined government service as Agriculture Development Officer on 14.11.1986. Being keen to improve her prospects in her service career with higher qualification, she applied for leave for higher studies which was allowed and she completed her Ph.D degree in Agronomy. The claim of the petitioner for treating the study leave as extra-ordinary leave for the purpose of counting the said period for grant of increments and other benefits remained pending consideration with the Government and vide

order dated 03.04.2001 (Annexure P-3) it was ordered that the aforesaid leave be treated as extra-ordinary leave however, with a rider that the leave period shall not be counted towards annual increments, pension, selection grade etc. The representation moved by the petitioner was declined vide order dated 27.12.2007 (Annexure P-4A).

Learned counsel relies upon (i) Sohan Singh vs. State of Punjab and another 1985(2) SLR 96 and (ii) Virender Parshad and others vs. State of Haryana and others CWP No. 15883 of 2011 decided on 02.08.2012.

On behalf of the State, it is contended that the petitioner was allowed extra-ordinary leave to do Ph.D from 14.03.1990 to 12.09.1993 under Rule 8.137 of Punjab Civil Services Rules Vol.1, Part-1 on the condition that she will not be given annual increment, pension, higher pay etc. for that period. The petitioner did not raise any objection against the aforesaid condition at the relevant time despite the fact that the copy of the said office memo was duly served upon her. The condition assailed in the present petition was duly acknowledged and accepted by her and after availing the benefit, the petitioner has assailed the same. Reliance has been placed on Suresh Kumar Yadav vs. State of Haryana and others 2009(11) S.C.T. 909.

Heard.

It is to be noticed that the petitioner had been granted extra-ordinary study leave from 14.03.1990 to 12.09.1993 for improving her qualification which in fact she did. As the petitioner was

keen to improve her qualification, to be utilized by the respondent, she had no other option than to accept the terms and conditions imposed by the department. In fact, she was not in a position to oppose the said condition.

In **Dr. Sanjay Goyal vs. State of Punjab 1997 (1)**

S.C.T (P&H) 148, it was held as under:-

“7. It is true that at the time of admission, the petitioner was told that he will have to apply for extra-ordinary leave. It is also true that the petitioner had filed an affidavit in which he had inter alia stated that he may be granted ordinary leave for the duration of the course. In this situation, the writ court shall not ordinarily intervene. However, the fact which deserves notice is that in CWP No. 5488 of 1992 Dr. Sudhir Sethi v. The State of Punjab, the claim of a person who was also admitted after the issue of instructions dated July 23, 1991 has already been upheld by a Division Bench of this Court. Still further, it is also established that even the persons who had joined the Post Graduate Course after the petitioner and have no better qualifications than him are eligible for the grant of full salary. The instructions produced by the petitioner with Civil Misc. application No. 4647 of 1996 clearly show that a regular member of the PCMS is entitled to full salary if he has rendered three years' rural service. The petitioner admittedly fulfils this qualification. The certificate in this behalf has been issued by the Director and a copy thereof is record as Annexure P-6. Taking the totality of circumstances into consideration, it appears that all persons who joined the course before and after the petitioner have been paid full salary. In this situation, it does not seem to be just and fair to treat the petitioner differently from the other members of the Service. In view of the above, the writ petition is allowed. It is held that the petitioner shall be entitled to the grant of full salary for the period during which he was

studying for the Post Graduation Course. In the circumstances of the case, there will be no order as to costs.”

The Court feels that an employee with higher qualification will be in a position to serve the department with added efficiency and the whole department shall stand benefited. The superior qualification attained by the petitioner will benefit the State which is predominantly an agriculture State. Consequently, the present writ petition is allowed. The order dated 27.12.2007 (Annexure P-4A) is hereby set aside. The respondents are directed to grant the benefits of increments by counting the period of study leave as period spent on duty and all the consequential benefits emanating therefrom within a period of two months from the date of receipt of certified copy of the judgment.

25.10.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No