

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

CWP-9540-2013 (O&M)
Date of decision : 05.12.2018

Rajwinder Kaur

...Petitioner

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Vikas Singh, Advocate,
for the petitioner(s).

Mr. Vikas Mohan Gupta, Addl.A.G., Punjab.

Mr. Abhishek Arora, Advocate,
for respondent No.5.

JITENDRA CHAUHAN, J. (Oral)

By way of the instant writ petition filed under Articles 226/227 of the Constitution of India, the petitioner, *inter alia*, seeks issuance of a writ in the nature of Certiorari for quashing order dated 28.10.2009 (Annexure P-4), passed by the District Elementary Education Officer, Naushehra Panunan, in pursuance whereof, the petitioner had been relieved from duty on 08.01.2010.

It is contended that the petitioner was appointed as Education Officer (Volunteer) in the Government Elementary School, Gulalipur and joined her services as such on 14.08.2008. The petitioner moved an application for grant of leave without pay in order to pursue higher study. Vide letter dated 28.11.2008, she was granted permission by the Block Education Officer, Naushehra Panuan, and the petitioner remained on leave

without pay from 01.12.2008 to 26.07.2009. The petitioner joined her duties under respondent No.4 on 27.07.2009 (Annexure P-1). However, to the utter surprise of the petitioner, she was issued letter dated 28.10.2009 (Annexure P-2), seeking her explanation as to with which officer's permission, the petitioner proceeded on long leave. The petitioner submitted a detailed reply vide letter Annexure P-3. Ultimately, the petitioner was relieved from duties on 08.01.2010.

On the other hand, learned State counsel submits that the petitioner was appointed purely on temporary basis under the Sarv Shiksha Abhiyan. She remained absent from duties w.e.f. 01.12.2008 to 26.07.2009, without getting any leave sanctioned or prior permission of the competent authority.

Heard.

It is admitted case of the petitioner that she remained on leave from 28.11.2008 to 26.07.2009 for pursuing B.Ed. Course. Though, it has been claimed by the petitioner that she moved an application for grant of leave without pay but the assertion so raised is not supported by any document. It has also been claimed that the leave was sanctioned vide letter dated 28.11.2008 issued by the Block Education Officer, Naushehra Panuan, however, the copy thereof, has not been placed on record. It has also come on record that she pursued the course as a regular student from Guru Angad Dev Khalsa College, Khadoor Sahib. There is nothing on record to show that the petitioner had obtained prior permission to acquire higher qualification.

From the above facts, it is clearly established that the petitioner

proceeded on long leave and acquired higher qualification without prior approval/sanction of the competent authority. Therefore, keeping in view the conduct of the petitioner, her services have rightly been dispensed with. Moreover, the petitioner has not availed the efficacious remedy of departmental appeal. The petitioner was appointed on purely temporary basis on 14.8.2008 and she had performed her duties only for a few months. No rules have been cited by learned counsel for the petitioner to show that permission to pursue higher studies could be granted to her, at the relevant time. The impugned order dated 28.10.2009 (Annexure P-4) is perfectly legal and valid.

In view of the above discussion, this Court feels that there is no merit in the present petition and accordingly, the same is dismissed.

05.12.2018

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(JITENDRA CHAUHAN)

JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No