

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

**CWP-1992-2019 (O&M)
Date of Decision:29.08.2019**

Gurmeet Kaur

... Petitioner

Versus

State of Punjab & others

... Respondents

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

Present:- Ms. Sonia G. Singh, Advocate for the petitioner.

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TEJINDER SINGH DHINDSA, J. (ORAL)

Petitioner was serving on the post of Senior Assistant under the Punjab School Education Board.

Vide order dated 15.07.2016 (Annexure P-11), her services were terminated. The appeal having been preferred, the same has been dismissed vide order dated 28.03.2017 (Annexure P-12) affirming the penalty of termination.

It is towards assailing the orders dated 15.07.2016 (Annexure P-11) and 28.03.2017 (Annexure P-12) that the instant writ petition has been filed.

Counsel for the petitioner contends that the action of the respondent/Board in imposing the extreme penalty of termination of service upon the petitioner is highly unjust and unfair as no credit has been afforded for the 21 years length of service that the petitioner had rendered. Further argued that the impugned action of termination has been taken on the sole charge of absence from duty but the authorities concerned have overlooked

the aspect that such absence of the petitioner from duty was not intentional and was on account of illness of the petitioner as also of her husband. It is urged that under such peculiar circumstances, a lenient view ought to have been taken by the employer.

Having heard counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that there is no merit in the instant writ petition and the same deserves to be dismissed.

Brief facts and which are not disputed by counsel are that the petitioner while serving on the post of Senior Assistant, Books Branch had already availed Ex. India Leave for 5 years. She thereafter again moved an application for Ex. India Leave for 3 years on P.R. Visa from 09.03.2015 to 08.03.2018. Even though such application was pending consideration, she applied for urgent leave and obtained permission to leave station from 10.03.2015 afternoon till 13.03.2015. Petitioner did not report for duty thereafter. Having remained continuously absent from duty, a charge sheet dated 01.06.2015 was issued. The catogoric article of charge formulated against the petitioner was for having remained absent from duty and on unauthorized leave continuously since 16.03.2015. The charge sheet was sent on her local address as well on the foreign address as mentioned in her application for grant of Ex. India Leave. Charge sheet sent on the local address was received back as un-delivered but petitioner submitted a reply to the charge sheet that had been sent on her foreign address. The reply having been found to be unsatisfactory, Professor Tarsem Bahiya was appointed as the Inquiry Officer. Inspite of being called upon repeatedly, petitioner did

not associate with the inquiry proceedings. Inquiry report was finally furnished holding the petitioner guilty of the charge. Copy of the inquiry report was furnished to the petitioner and she was also served with a show cause notice contemplating disciplinary action. Thereafter, prior to issuance of the impugned order dated 15.07.2016 imposing upon the petitioner penalty of termination, opportunity of personal hearing was also afforded. Counsel does not controvert the afore noticed factual premise.

It is by now well settled that power of judicial review under Article 226 of the Constitution of India is with regard to the decision making process and not the decision itself. The impugned action of imposing the penalty of termination is after following due process and upon adhering to the principles of natural justice. The action has been taken as per the provisions of the Punjab School Education Board Employees (Punishment and Appeal) Act, 1978. Counsel has not raise any submission as regards violation of any procedure containing in the statutory provisions. There are no pleadings in such regard as well. Under such circumstances, no patent infirmity or irregularity is found in the action of the respondent/Punjab School Education Board in having taken the decision to terminate the services of the petitioner.

Even otherwise, the charge against the petitioner was serious. She remain absent from duty continuously from 16.03.2015 and was ultimately issued a charge sheet on 01.06.2015. Prior thereto, various communications had been issued calling upon her to join back on duty. She chose not to do so. Facts and circumstances of the case make it apparent that the petitioner has been pursuing greener pastures. On a specific query having

been put, counsel concedes that the petitioner even as of date is in Australia. Prior to submitting an application seeking Ex. India Leave for 3 years on P.R. Visa from 09.03.2015 to 08.03.2018, the petitioner had already availed of Ex. India Leave for 5 years. Under such circumstances, the submission advanced on behalf of the petitioner to be granted some credit in lieu of the length of service already rendered is wholly misconceived.

No intervention in the matter is called for.

Writ petition is dismissed.

29.08.2019

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |