

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

**CWP-432-2014 (O&M)
Date of decision : 09.07.2019**

Navreet Kaur

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Vinod K. Chaudhri, Advocate and
Mr. Onkar Singh, Advocate,
for the petitioner.

Ms. Deepali Puri, Addl.A.G., Punjab,
for respondent Nos.1 and 3,
assisted by Mr. Purshotam Lal, Sr. Asstt.,
O/o Director, State Institute of Health
and Family Welfare, Punjab.

Name of respondent No.2 deleted from the array of parties
vide order dated 31.01.2019.

JITENDRA CHAUHAN, J.

By way of filing the instant writ petition, the petitioner seeks quashing of order dated 28.06.2013 (Annexure P-10), passed by respondent No.1, whereby, the services of the petitioner were not extended; and order dated 24.10.2013 (Annexure P-12), passed by respondent No.1, whereby, the services of the petitioner were terminated as also for issuance of a direction to the respondents to extend the benefit of maternity leave to the petitioner w.e.f. 09.04.2013 to 08.10.2013.

It is contended that the petitioner was appointed to the post of

District Account-cum-Cashier in the office of Senior Medical Officer, Roop Nagar, vide appointment letter dated 05.03.2008 (Annexure P-1), on contractual basis under the National Rural Health Mission (NRHM). The petitioner vide letter dated 02.04.2008 (Annexure P-2), was again appointed as such in district SAS Nagar (Mohali) and she worked on different positions on contractual basis and ultimately, she was appointed as Technical Assistant in the office of Nodal Officer, Admn and Establishment vide order dated 21.09.2011 (Annexure P-5). Vide letter dated 02.04.2012 (Annexure P-6), the contract of the petitioner as well as other employees appointed on contractual basis from 01.04.2012 to 30.06.2012, was extended. The last extension was from April 2013 to 31.03.2014. On 09.04.2013, when the petitioner was eight months' pregnant and on account of same, developed some complications and submitted her application and proceeded for leave. To the utter shock and surprise of the petitioner, she received office order dated 28.06.2013 (Annexure P-10), to the effect that respondent No.1 had terminated contract of the petitioner on the ground of her proceeding of un-sanctioned leave. Aggrieved against the action of the respondents, the petitioner submitted a detailed representation dated 20.07.2013 (Annexure P-11) with a request that her services may be resumed and benefits of maternity leave be also extended to her. However, vide impugned letter dated 24.10.2013 (Annexure P-12), the application of the petitioner was rejected on the ground that *“there is no rule or provision under which the contractual staff in RCH Programme is entitled for maternity leave.”*

At the very outset, learned counsel for the petitioner states that he restricts his claim to reinstatement of the petitioner in service along with benefits under the Maternity Benefit Act, 1961 i.e. payment of salary and other allowance for six months. The petitioner does not claim any arrears of pay etc.

On the other hand, learned State counsel, on instructions, states that the seat vacated by the petitioner stands occupied by another officer, however, this is another post of Technical Assistant (B) under the CTI scheme in the office of State Institute of Health and Family Welfare, Phase VI, Mohali, lying vacant.

Heard.

The contractual employment of the petitioner was terminated on the ground that she had proceeded on maternity leave, whereas, contractual staff is not entitled to such leave. In this regard, reference can be made to the notification dated 09.01.2012 (Annexure P-15), which prescribes the terms and conditions of the employees working on contract basis under NRHM. The relevant portion thereof, reads thus:-

“5.0 Maternity Leave/Abortion Leave: Maternity leave would be available as per provision of Maternity Benefit Act, 1961 and Abortion Leave would be admissible as per the Medical Termination of Pregnancy Act 1971 to all female employees working in NRHM with the stipulation that they should have put in at least one year

service in NRHM on the date this leave is applied for.”

There is no dispute with regard to the fact that the appointment of the petitioner was under the NRHM on contractual basis. The respondents cannot take a stand contrary to the notification dated 09.01.2012 (Annexure P-15). Considering the fact that the services of the petitioner were not discontinued on the ground of any lapse on her part but only on account of her proceeding on maternity leave which she was otherwise entitled to in view of the notification dated 09.01.2012 (Annexure P-15), the respondents are directed to offer the post lying vacant at the State Institute of Health and Family Welfare, Mohali, to the petitioner as well as to pay the benefits under the Maternity Benefit Act, 1961, within a period of three months from today.

09.07.2019
atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No