

CWP-2268-2018 (O&M)

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

**CWP-2268-2018 (O&M)
Date of decision : 16.10.2019**

Permila

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajesh Bansal, Advocate
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

AMIT RAWAL, J. (ORAL)

Petitioner has approached this Court for issuance of a writ in the nature of *certiorari* quashing the impugned order dated 03.01.2018 (Annexure P-9), whereby her services have been terminated.

The facts, which emanate from the pleadings, are that petitioner, from time to time, was appointed on contract basis, as Ayurvedic Medical Officer (AMO) (Female), in the Community Health Centre, Gohana, office of Civil Surgeon, Sonapat, on account of certain terms and conditions. Owing to ill-health of grandfather-in-law, submitted leave without pay from 18.07.2017 to 16.08.2017 and thereafter, 17.08.2017 to 15.09.2017, being only daughter-in-law in the family as her mother-in-law had expired. She remained on leave without pay from 17.08.2017 to 15.09.2017. To justify the aforesaid circumstances, reliance has been laid to

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the medical record (Annexure P-4, Colly). Vide letter dated 28.12.2017 (Annexure P-5), despatched on 29.12.2017, petitioner was given seven days' time to join the office of Senior Medical Officer, Community Health Centre, Gohana. The aforementioned letter, according to the submission of learned counsel for the petitioner, was received on 02.01.2018 and thereafter, the petitioner submitted her joining report on 04.01.2018, but as per information, her services vide impugned order dated 03.01.2018 (Annexure P-9), owing to non-submission of joining report within prescribed period, were terminated.

Learned counsel for the petitioner submitted that seven days' period, from the date of despatch i.e. 29.12.2017, had expired on 05.01.2018, thus, there was no occasion for the respondents to pass the impugned order, before expiry of the prescribed period. Though submission of joining report on 04.01.2018, has not been disputed.

Learned counsel for the respondents/State submitted that leave without pay was without obtaining any sanction from the authority, her appointment was purely on contractual basis, therefore, her services could be terminated as per terms and conditions of the appointment letter, thus, urges this Court for dismissal of the present writ petition.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submission of Mr. Bansal.

It would be in the fitness of things to extract the contents of letter dated 28.12.2017 (Annexure P-5), which reads as under:-

"Subject: Leave without pay of RBSK Dr. Permila.

On the subject cited above it brings in to the knowledge of the

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officials that RBSK Dr.Permila applied for without pay leave from 18.07.202017 to 16.08.2017, copy of the same was sent through email and copy of the same is also enclosed with this letter. Dr. Permila again applied for without pay leave from 17.08.2017 to 15.09.2017, copy of the same was sent through mail and copy of the same is enclosed with the letter also. Dr. Permila has not joined the duties till date and no information has been sent to the office.

Undersigned has not released the salary to Dr. Permila from 18.07.2017. This is sent for your information.

Sd/-

Senior Medical Officer,

CHC Gohana.

One copy of the same is sent to Dr. Permila and it is hereby written that if you will not give your joining information within 7 days in the office of SMO. CHC Gohana then you will be terminated from the service by executing the ex parte proceedings and for which you will be responsible."

From the perusal of the Annexure P-8, tracking record of the letter, concededly, the letter (Annexure P-5) was despatched on 29.12.2017 and received by the petitioner on 02.01.2018 and period of seven days expired on 05.01.2018. However, impugned order, admittedly was passed on 03.01.2019, in such circumstances, the respondents could not have acted in haste, in my view, the impugned order does not stand on touch-stone of the reasonability or legitimate expectations. Submission of joining report on 04.01.2018 has not been disputed.

Keeping in view the aforementioned facts, the present writ petition is allowed and impugned order (Annexure P-9) is hereby set aside. The respondents are directed to allow the petitioner to join her duties along with all consequential benefits, which she is entitled to.

16.10.2019
Yogesh Sharma

(**AMIT RAWAL**)
JUDGE

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