

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1747 of 2021

- Mridubhashini Patanwar D/o - Mr. D.R. Patanwar Aged About 32 Years Presently Posted - Nagar Nigam Bilaspur As Garden Supervisor, R/o Kanchan Vihar B-06, Seepat Road, Bilaspur Chhattisgarh

---- Petitioner

Versus

1. Commissioner Nagar Palik Nigam, Bilaspur, Chhattisgarh
2. Additional Commissioner Nagar Palik Nigam, Bilaspur, Chhattisgarh

---- Respondents

For Petitioner	:	Ms. Diksha Gouraha, Advocate
For Respondents	:	Shri Pankaj Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

24.03.2021

1. Heard
2. The present writ petition is arising out of the order dated 22.01.2021 (Annexure P/1) issued by the respondent No. 1 whereby the authorities have canceled the application of the petitioner for grant of study leave. The petitioner herein was appointed on the post of Garden Supervisor under the respondent authorities in the year 2013 and she was subsequently regularized in the service in the year 2015. That in the month of June 2020, the petitioner applied to the respondent No. 1 for grant of NOC from the department for applying and appearing in the PHD course which was initially granted by the respondent No. 1. Based upon this, the petitioner participated in the selection for PHD course and stood meritorious for pursuing Ph.D course in the subject of Floriculture and Landscape architecture. The petitioner thereafter moved a letter to

the respondent No. 1 for grant of study leave for pursuing the Ph.D course which now stands rejected by the impugned order Annexure P/1 leading to the filing of the present petition.

3. The contention of the petitioner is that once when the respondent No. 1 have issued the NOC, there was no reason why the study leave should not have been granted on the later stage upon the petitioner being found selected for the Ph.D course. The other ground of the petitioner is that for the betterment of the establishment itself, if the petitioner is permitted to undertake the PhD in the field of Floriculture and Landscape Architecture and that would be in the larger interest of the Corporation upon the petitioner getting qualified in the said field.
4. Learned counsel for the petitioner further submits that the under the Chhattisgarh Civil Services (Leaves) Rules, 2010 (henceforth referred as 'Rules of 2010'), upon an application being moved by the employees, it shall be the responsibility of the employer to process the same and grant study leave under Clause 42 & 45 of the said Rules of 2010. Learned counsel for the petitioner further relied upon the decision of this Court in the case of Deepak Kumar Rathore vs. Guru Ghasidas University passed in Writ Petition (S) No. 3159/2017 as also the case of Ganesh Prasad Shukla vs. Guru Ghasidas University in Writ Appeal No. 101/2018, wherein this Court and the Division Bench of this Court have exercised the writ jurisdiction and have granted study leave to those petitioners.
5. Per contra, Shri Pankaj Agrawal appearing for the Municipal Corporation submits that he has instructions to state that the rejection of the application of the petitioner was a conscious decision, taking into consideration the nature of duties that the petitioner was discharging and also taking note of the fact that in the entire Municipal Corporation Bilaspur, there is only one post of Garden Supervizor which is being discharged by the petitioner and in case if the petitioner is granted study leave, the entire work of the Garden Supervizor as also the nature of duties exercised by the

petitioner would get adversely hampered and therefore the Corporation has rejected the application. It was the further contention of the Counsel for the respondent Corporation that the State Government have issued a circular dated 15.11.1984 which provides for entertaining applications for study leave subject to the maximum of 15 percent of the total number of posts available and in the instant case since there is only one post of Garden Supervizor available under the respondent authorities and which is being occupied and discharged by the petitioner, the respondents are justified in rejecting the same.

6. Having heard the contention put forth on either side and on perusal of record, this Court is of the firm view that the reasons expressed by the Counsel appearing for the Corporation both, on the aspect of there being only one post of Garden Supervizor and which is being occupied and discharged by the petitioner and in the event if the petitioner is granted the study leave the work of the Corporation particularly the nature of duties discharged by the petitioner would get adversely hampered for a considerable period of time. Moreover, even the circular of the State Government of the year 1984 describes only entertaining an application for study leave to the maximum of 15 percent of the existing posts and in the instant case since there is only one post occupied by the petitioner, if the petitioner is granted study leave, it would be 100 percent of the posts which has been granted study leave which otherwise is not the intention and object behind the State Government.
7. All said and done it is the nature of duties discharged by the petitioner or a claimant for study leave which should not get hampered in the process of grant of study leave and which could have been managed in the event if there were more than one post of Garden Supervizor available with the respondent. However, in the instant case, since there is only one post of Garden Supervizor and which is being occupied by the petitioner there would not be anybody else competent enough to take care and discharge the duties of a Garden Supervizor and thus undoubtedly it will cause great

hardship to the department in managing the works discharged by the petitioner. For the said reason, this Court does not find any strong case made out by the petitioner calling for an interference in the impugned order dated 22.01.2021 Annexure P/1 and the writ petition, thus being devoid of merits stands rejected.

8. The reluctance on the part of this Court in entertaining this writ petition would not preclude the petitioner from approaching the authorities on the administrative side by making suitable representation, which if made, then the respondent No. 1 shall consider the same in accordance with the rules governing the field.

Sd/-
(P. Sam Koshy)
Judge