

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

216

CWP No. 6098 of 2021 (O&M)

Decided on : 09.12.2021

Jagjeet Kaur

... Petitioner

Versus

Chandigarh Administration & others

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS SURI**

Present:- Petitioner in person.

Mr. Arav Gupta, Advocate for the respondents.

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition filed under Article 226/227 of the Constitution of India is to the order dated 05.01.2021 (Annexure P-4) passed by the Central Administrative Tribunal (for short 'the Tribunal), whereby the Execution Application of the petitioner was dismissed on the ground that the order dated 04.01.2021 (Annexure P-5) had already been passed by the respondents in compliance of the order passed by the Tribunal on 09.12.2019. Therefore, the order sought to be enforced having been complied with, the execution application was, accordingly, dismissed. Liberty was given to challenge the said order, if so desired, through a fresh original application.

During the course of hearing, it transpires that the only grouse to which the petitioner is aggrieved of is that while passing the order dated 04.01.2021 (Annexure P-5), the Joint Director (Admn.) for Education Secretary, Chandigarh Administration has observed that no further such leave would be granted to the applicant. Though in normal circumstances,

this Court would not exercise the writ jurisdiction, since liberty has been granted by the Tribunal to impugn the said order, but keeping in view the fact that the petitioner is appearing in person and is working on contractual basis with the Post-Graduate Government College, Sector-11, Chandigarh and is also looking after her minor ailing daughter, it would not be appropriate to drive her to another round of litigation, on account of the reasons given, for which the writ petition is being allowed. The relief which has been granted is also on account of the fact that there is no valid reason for the respondents as such to deny the balance permissible Child Care Leave for future inspite of the petitioner not having availed of her complete entitlement.

It is not disputed that on account of the earlier application for Child Care Leave, which the petitioner had applied for a period of 2 years from April, 2019 to April, 2021, directions had been issued by the Tribunal on 09.12.2019 to consider and extend the benefit of Child Care Leave forthwith. She had applied for Child Care Leave from 10.01.2020 to 30.11.2020. However, she herself curtailed the leave and joined on 20.03.2020 (Annexure P-6) and as such submitted her joining report with the Principal, PGGC-11, Chandigarh. On account of the fact that colleges were not functioning from 20.03.2020 to 23.11.2020 due to Covid-19 pandemic, the petitioner had not attended the physical duties, but continued taking online classes besides taking care of her child who is stated to be suffering from cancer. The physical opening of the colleges was to commence w.e.f. 23.11.2020, vide letter dated 18.11.2020

and normal duties resumed from the said date. The petitioner has also been paid the salary from 20.03.2020 till November, 2020 as per the record (page No.48B).

Counsel for the respondents could not defend the restriction as such, imposed vide the impugned letter dated 04.01.2021 (Annexure P-5).

It is not a matter of dispute that the rules provide for Child Care Leave and the petitioner has availed the same for a limited specific period only and for the balance period she is entitled to the said concession, as and when required.

It is, accordingly, expected that in view of the settled legal position, the respondents shall act on her application as and when she files one, sympathetically, keeping in view the fact that her minor child is suffering from Lymphoblastic Leukemia and was getting treatment at Medanta Medicity Hospital, Gurugram.

The writ petition is, accordingly, disposed of by quashing the offending portion in the letter dated 04.01.2021 (Annexure P-5) restricting the claim in the future.

(G.S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

December 09, 2021
Naveen

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No