

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

CWP 23341 of 2016 (O&M)

Date of Decision: September 15, 2021

Shakuntla Sharma

...Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Manu K. Bhandari, Advocate
for the petitioner.

Mr. Shireesh Gupta, Sr. DAG, Punjab
for official respondents-State.

FATEH DEEP SINGH, J. (Oral)

Present petitioner Shakuntla Sharma claims to have been initially appointed on temporary basis as a teacher with the respondents on 23.12.1965 on which post she served till they February, 1969. On 28.02.1969, the petitioner was appointed as JBT Teacher on regular basis and joined her services, as such, in Government Girls High School Kurali, District Ropar. During the course of her employment, the petitioner remained

posted at various places in different schools being run by the respondents. It was on own request of the petitioner she was allowed to take charge in Government Primary School Baloli Block Anandpur Sahib on 10.06.1989. It is, thereafter, as per own stand of the petitioner she left for Nasik (Maharashtra) in July, 1989 where her husband was employed. The petitioner alleges that she returned back in the month of October 1989 but was not permitted to join her duties and thereafter she went back to Nasik due to illness of her husband. It is in between on 31.05.2003, the petitioner during the period of absence attained the age of superannuation.

The primary grouse of the petitioner is that she was not paid any dues and in spite of that fact has she rendered 20 years of service was compelled to approach this Court by filing CWP 5278 of 2012 (Annexure P-17) and which she withdrew on 01.08.2014. It is subsequent thereto the present invocation in terms of Article 226 of the Constitution of India has been made

by the petitioner seeking quashment of order dated 25.02.2016 (Annexure P-24) whereby her claim for grant of GPF, gratuity, pension, leave encashment etc. was declined.

The petitioner claimed the act and conduct of the respondents to be illegal, *malafide*, fictitious and has sought relief in question.

The respondents in their tersely worded reply though accepts initially appointment of the petitioner but alleged that she remained absent from her service without due intimation or permission and being a regular absentee has deemed to abandon her job. It is specially claimed that the petitioner was irregular right from 23.12.1965 to 13.0.7.1986 and at different intervals avoided her services invited punishment in terms of Rule 3.17(2)1 (VII) of the Punjab Civil Services Rules. The respondents claim that the petitioner is only entitled to GPF of Rs.8,010/- and denied each and every claim of the petitioner seeking dismissal of the petition.

In her rejoinder, the petitioner reiterated her stand.

Heard Mr. Manu K. Bhandari, Advocate for the petitioner and Mr. Shireesh Gupta, Sr. DAG, Punjab for respondents.

The admitted stand in the pleading of the two sides reflect the engagement and employment of the petitioner with the respondents and she herself admits the factum that she did not carry on with her duties after she left for Nasik where her husband was posted from 16.09.1988 onwards. Her application for leave from 16.09.1988 to 15.04.1989 was declined by the authorities and she was asked to join back on her duties within 15 days which is well reflected in the letter of the respondents (Annexure P-12) and on 02.05.89 (Annexure P-13) which is joining report of the petitioner in her own handwriting under her signatures and she has joined back on 02.05.1989 and consequent upon her transfer to Government Primary School Baloli, Anandpur Sahib she joined her duties on 10.06.1989.

The letter sent by the respondents (Annexure P-21) clearly bear out in its contents that the petitioner failed to respond to the request of the respondent to submit details to enable them to process her claim. The details of absence of the petitioner from her duties are as under:-

Absence/without pay leave	
From	To
05.03.66	10.03.66
02.07.66	27.07.66
29.01.67	31.01.67
17.3.67	07.04.67
13.04.67	13.04.67
04.06.67	17.07.67
24.01.68	27.01.68
06.04.68	15.04.68
06.05.68	25.07.68
15.12.68	07.03.69
02.08.73	08.08.73
18.10.73	24.12.73
02.04.74	15.10.74
23.10.74	10.04.75
14.05.75	14.07.75
17.10.75	09.04.77
07.09.77	01.05.78

25.06.78	19.10.78.
02.04.79	27.09.79
22.02.80	22.05.80
09.01.81	31.03.81
14.04.81	01.05.81
24.09.81	03.10.81
07.12.81	08.02.82
16.04.82	19.04.82
24.07.82	12.11.82
05.01.83	15.04.83
23.07.83	11.11.83
02.01.84	16.04.84
23.07.84	10.12.84
02.01.85	15.02.85
08.07.85	06.11.85
09.12.85	01.05.86
14.07.86	31.05.03

and to the specific query of the Court counsel for the petitioner was clearly at loss of words and therefore is reflective that she never continuously worked on the post to which she claims and there has been continuous disruption in her service on account of unauthorized absence.

Rule 3.17-A(e) ensures that an interruption in the service of the government employee caused by willful absence from duty and unauthorized absence without leave will as hitherto entail forfeiture of past service and which arguments advanced on behalf of the respondents by Mr. Shireesh Gupta, Sr. DAG, Punjab could not be countered by any means by counsel for the petitioner Mr. Manu K. Bhandhari. For this long continuous absence from duty by the petitioner which is even admitted by the petitioner in her pleadings and could not be controverted by the documents of the respondents. It is reflective that this continuous uninterrupted long absence from service impels this Court to draw an inference that the petitioner had all the intention to abandon her service as laid down in Civil Appeal 1188 of 1976 decided on 06.12.1978, **G.T. Lad and others Vs. Chemicals and Fibres India Ltd**, and therefore, a fair and reasonable conclusion can be drawn which is in consonance with the Article 14 of the Constitution. Since as has

been held in **Vijay S. Sathaye Vs. Indian Airlines Ltd. and others 2013(3) CLR 612** an employee cannot be permitted to be on leave and has a right to abandon the service at any time voluntarily and the act and conduct in not joining the duty and remaining absent for a long period of time without any intimation or permission is in itself a classical case of voluntary abandonment of the job by the petitioner and, therefore, a positive action on her part in which the respondent have no role to play though much reliance has sought to be placed on CWP 24687 of 2014 (O&M) decided on 07.01.2021 titled as **Baldev Singh Vs. Punjab Mandi Board and others, High Court of Punjab and Haryana Vs. Amrik Singh 1995(29) ATC 311, Ex. Constable Satinder Pal Singh Vs. State of Punjab 2002(1) S.C.T. 614, Ganga Bishan Vs. State of Haryana 1994(3) PLR 691, Lajpat Rai Mehta Vs. Secretary to Government of Punjab, Department of Irrigation & Power, Chandigarh 2009(3) S.C.T. 717, Kesar Chand Vs. State of Punjab**

through the Secretary, P.W.D.B. & R. Chandigarh and others 1988(5) SLR 27, Civil Appeal No. 10251 of 2014 decided on 12.10.2015 titled as **Asger Ibrahim Amin Vs. Life Insurance Corporation of India** by Mr. Manu K. Bhandari. However, none of the ratios cited by him could advance the case of the petitioner on account of factual disparity. It is not a case of dismissal from service and is a **“voluntary abandonment”** by the petitioner. More so, as per her own stand, the petitioner for a small stint joined back her duties after absence from 16.09.1988 to 15.4.1989 on 10.06.89 and left for Nasik in July, 1989 till her superannuation on 31.05.2003 is corroborative and illustrative of her intention to abandon her job and therefore in view of the Rule detailed above, tends to forfeit her past service as well.

This Court cannot refrain itself from observing that it has become a very common malady with Government employees to work as per their whims and fancies partly

because of their influence wielded in the organization and partly because of the political affinity. Being in Education Department, the very conduct of the petitioner in remaining absent willfully for a continuous period of time and her repeated absenteeism does not calls for showing any compassion as this Court has observed that there are more than 33 instances of her unauthorized absence during her engagement and, therefore, in view of the foregoing reasons, this Court does not finds any merit in the instant petition and the same stands dismissed.

September 15, 2021
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No