

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

**236**

**CWP-13842-2019 (O&M)  
Date of decision: 28.02.2023**

Promila Devi

...Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. Lalit Rishi, Advocate for the petitioner.

Mr. Narender Singh Behgal, AAG Haryana.

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**HARNARESH SINGH GILL, J. (ORAL)**

Prayer in the present petition is for issuance of a writ in the nature of certiorari quashing the action of the respondents in not sanctioning the full Child Care Leave to the petitioner w.e.f. 10.05.2017 to 25.09.2018 as admissible to her under Rule 46 of the 'Haryana Civil Services (Leave) Rules, 2016' (for short 'the Rules') and not paying salary to the petitioner from 01.11.2017 to 31.05.2018 as well as quashing the order dated 12.11.2018 (Annexure P-13).

Learned counsel for the petitioner submits that the petitioner was initially appointed as C&V Hindi Teacher and on 29.11.2016, while she was posted at GHS Baijalpur, District Fatehabad, i.e. she had applied for Child Care Leave (CCL) for 530 days i.e. from 10.05.2017 to 25.09.2018, admissible to a female Government employee under the Rules, for taking care

of her son, who was studying in 10+2; that the petitioner was granted CCL only for a period of 174 days i.e. from 10.05.2017 to 31.10.2017 and during CCL period, she was promoted as Post Graduate Teacher (PGT) Hindi, on 16.07.2017; that after promotion, the petitioner joined as such at Govt. Senior Secondary School, Nezadela Kalan, Sirsa, on 05.08.2017 and again proceeded on CCL already granted to her uptill 31.10.2017 and that vide application dated 04.09.2017, the petitioner had applied for extension of CCL period w.e.f. 01.11.2017 to 25.09.2018 to respondent Nos.4 and 5.

Learned counsel for the petitioner further submits that now the grouse of the petitioner is that the period from 01.11.2017 to 25.09.2018 for which CCL was sought and not sanctioned, has been treated as leave of kind due and vide Annexure P-13, the petitioner was directed to submit her explanation for not attending the School for the said period; that one Neelam Rani, PGT English, posted in the same school had also applied for the CCL and been granted CCL w.e.f. 25.12.2016 to 30.05.2018 (522 days) and that there is no fault of the petitioner, as she was not informed qua non-sanctioning of CCL by the authorities concerned. In support of his contentions, learned counsel for the petitioner relies upon the judgment rendered by the Hon'ble Supreme Court in 'Kakali Ghosh Vs. Chief Secretary, Andaman and Nicobar Administration and others' 2014(15) SCC 300 and order dated 10.10.2017 passed by a Coordinate Bench in CWP-21506-2017 titled as 'Dr. Kanchan Bala Vs. State of Haryana and ors.'.

Learned State counsel while rebutting the arguments of the learned counsel for the petitioner submits that vide order dated 13.06.2017, the CCL of the petitioner was sanctioned from 10.05.2017 to 30.10.2017, but

the petitioner further remained on CCL of her own from 01.11.2017 to 30.05.2018 without any approval of the competent authority and that is why said period was converted into leave of kind due. It is further submitted that thereafter, on 31.05.2018, the petitioner joined back her duty and worked upto 31.07.2018 and she again went on leave from 01.08.2018 to 30.08.2018 without any approval of competent authority.

Learned State counsel points out that despite the petitioner's having remained on leave without sanction of competent authority, no administrative action was taken against her. He also draws the attention of this Court to the fact that the Principal, while forwarding the application of the petitioner for CCL, asked the Block Education Officer to provide the substitute for the smooth functioning of the School, as the study of the students would be affected, due to non-availability of Hindi Lecturer. He also submits that as per Rule 46(2) of the Rules, Child Care Leave cannot be demanded as a matter of right and no one can, under any circumstances, proceed on child care leave without prior proper sanction of the leave by the competent authority.

I have heard the learned counsel for the parties and have also gone through the case file.

Though the petitioner had applied for 530 days CCL, yet she was granted only 174 days' CCL. She continued abstaining from duties, without any approval of her CCL, from the competent authority. This left the department with no option, except to convert the absence period into the leave of kind due i.e. earned leave from 01.11.2017 to 21.02.2018 and extraordinary leave (without salary) from 22.02.2018 to 30.05.2018. Despite

the request of the Principal concerned, no substitute was provided in place of the petitioner, which had adversely affected the studies of the students. Rule 46(2) of the Rules, would clearly stipulate that the CCL cannot be claimed as a matter of right and that no one can proceed on CCL, without prior approval of the competent authority.

In view of the above, finding no merit in the present petition, the same is dismissed.

**(HARNARESH SINGH GILL)**  
**JUDGE**

**28.02.2023**  
*Mangal Singh*

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|----------------------------|--------|
| Whether reasoned/speaking? | Yes/No |
| Whether reportable?        | Yes/No |