

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10956 of 2014 (O&M)

Date of decision: 27.02.2023

Kulwant Kaur

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. H.S.Dhindsa, Advocate
for the petitioner.

Mr. D.K.Singal, Addl.A.G., Punjab

ANIL KSHETARPAL, J(Oral)

C.M.No.3512 of 2023

Allowed as prayed for.

Annexure A-1 is taken on record.

MAIN

1. The petitioner prays for the issuance of a writ in the nature of certiorari to quash the order passed on 07.02.2014, while dismissing her from service. She also prays for the issuance of a writ in the nature of certiorari to quash the order passed on 01.02.2013, whereby, her request for voluntary retirement has been rejected.

2. The relevant facts, in brief, are required to be noticed which are as follows:-

3. The petitioner, at the relevant time, was working as a Lecturer in the subject of English. Subsequently, she was promoted to the post of Principal. On 15.01.2010, she applied for leave from 20.03.2010 to 29.03.2015 for self employment in Canada which was not sanctioned.

Thereafter, she applied for sanctioning of Ex-India leave from 26.06.2010 to 15.08.2010, which was also never sanctioned, however, she still proceeded on leave and went to Canada. She, again, applied for Ex-India leave from 16.08.2010 to 15.08.2011 which was sanctioned subject to the following conditions:-

- “1. No extension in leave be given to the employee.*
- 2. After expiry of leave granted, she shall report for duty and in case she does not join, it will be treated that the employee has resigned from Government service”.*

3. After the lapse of her Ex-India leave on 15.08.2011, the petitioner did not report back. It is stated that the petitioner met with an accident in June, 2012 while being in Canada. However, prior thereto, she was served with a charge sheet. Despite that the petitioner did not come back to answer the same or resume her duty. Ultimately, in the month of January, 2013 she tried to join back the service while submitting her request for voluntary retirement with 3 months salary. However, her request for voluntary retirement was rejected on 01.02.2013. In the departmental proceedings, the charges were reported to be proved against the petitioner. Ultimately, on 07.02.2014, the impugned order, dismissing her from service, was passed.

4. This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

5. The learned counsel representing the petitioner contends that the petitioner has served the department around 19 years and 11 months. He submits that the petitioner's request for voluntary retirement should have been accepted while ignoring the deficiency in the required minimum period

of service.

6. This court has considered the submissions of the learned counsel representing the petitioner.

7. It is evident that the petitioner left the country though her application for Ex-India leave was not sanctioned. Subsequently, the leave was sanctioned, however, subject to certain conditions. Though, the petitioner met with an accident in June 2012, however, she was expected to join on 16.08.2011. Moreover, it is evident that the leave of the petitioner was sanctioned subject to the condition that if she does not report back on duty, her application shall be treated as her resignation.

8. Keeping in view the aforesaid facts, no ground to issue the writ as prayed for is made out.

9. Dismissed.

10. At this stage, the learned counsel representing the petitioner submits that in the impugned order, the competent authority has referred to incorrect dates.

11. The facts noticed by this court are not disputed. If there is any inadvertent error while referring to the various dates in the impugned order, the same would not debar the court from examining the case of the petitioner while referring to the correct dates.

12. All the pending miscellaneous applications, if any, are also disposed of.

February 27, 2023
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(ANIL KSHETARPAL)
JUDGE

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