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

**CWP No.15865 of 2016 (O&M)
Date of Decision: 24.01.2023**

SHAKUNTLA KUKREJA

.....Petitioner

Vs

STATE OF HARYANA AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Parveen Kumar Rohilla, Advocate
for the petitioner.

Mr. Tapan Kumar Yadav, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

The petitioner has preferred this writ petition for the issuance of an appropriate writ in the nature of certiorari to quash to the order dated 07.04.2008 (Annexure P-4) passed by the respondent No.2 dismissing the services of the petitioner with retrospective effect i.e. w.e.f. 25.10.1995.

Perusal of the record would indicate that the petitioner was working as MPHS(F) in Primary Community Centre, Madhuban. Earned leave was sanctioned to the petitioner from 10.07.1995 to 10.09.1995 on account of construction of her house. The petitioner was informed in advance that no further leave will be granted after 10.09.1995 but the petitioner kept on

requesting the Senior Medical Officer for grant of further leave from 11.09.1995 to 25.10.1995

Perusal of endorsement made by the office of the Senior Medical Officer, Community Health Centre, Indri would show that the leave was granted from 11.09.1995 to 25.10.1995 when the petitioner was posted in Primary Health Centre, Madhuban and the same was accepted by the office of Senior Medical Officer.

After 25.10.1995, the petitioner did not join her duty and no further leave was accepted by the concerned office. The petitioner did not join after 25.10.1995 despite repeated communications. Registered posts issued in this context were returned back with the comments that the receiver had gone abroad. The petitioner remained absent from the duty and she was chargesheeted under Rule 7 on account of her going abroad without getting any permission. The chargesheet could not be served upon the petitioner as she had gone abroad. The chargesheet was affixed by the Assistant at the permanent residence of the petitioner in the presence of gazetted officer on 17.01.1989. Regular enquiry was held and it was found that the petitioner had gone abroad from the year 1995 and she remained absent throughout. Thereafter even notice was issued to the petitioner calling upon her to give her explanation as to

why the penalty of dismissal from the service be not imposed upon her.

The petitioner did not file any reply to the show cause notice. Ultimately the respondent No.2 vide order dated 07.04.2008 dismissed the services of the petitioner from the date of her absence from duty i.e. 25.10.1995.

The petitioner has assailed the aforesaid order on the premise that retrospective dismissal from the service is not permitted in view of Rule 13(1) of the Punjab Civil Services (Punishment and Appeal) Rules, 1970. In support of his contention, learned counsel for the petitioner places reliance upon **Shiv Kumar Ratti vs. State of Punjab, 2003(3) SCT 259.**

Learned counsel for the petitioner submits that the delay has occasioned on account of inaction on behalf of the respondent authorities in not treating the prayer of the petitioner for considering voluntary retirement for which three months' notice had already been given by the petitioner on 01.04.1999. The petitioner had also moved an application to the Senior Medical Officer for grant of pensionary benefits for treating her total length of service as on the date of absence.

At this stage, without meaning anything on other aspects of the case, I deem it appropriate to set aside the order dated 07.04.2008 passed by the respondent No.2 only to the extent of retrospective dismissal of the petitioner w.e.f.

25.10.1995. The impugned order is modified and is ordered to be given effect w.e.f. 07.04.2008. For other reliefs, the petitioner may approach the competent authority by way of moving a representation explaining the factum of earlier application and representation thereof. In the event of filing such representation, the competent authority shall advert to the same and pass appropriate order in accordance with law.

Petition stands disposed of.

January 24, 2023	(RAJ MOHAN SINGH)
Atik	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No