

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-7593 of 2015 (O&M)
Date of decision: 23.01.2023

Santosh Kumari

..Petitioner

Versus

The Secretary Department of Education Punjab Civil
Secretariat, Chandigarh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vineet Chaudhary, Advocate
for the petitioner.

Mr. R.S.Pandher, Sr. DAG, Punjab

ANIL KSHETARPAL, J(Oral)

1. The petitioner prays for the issuance of a writ in the nature of mandamus to direct the respondents to take follow up action in compliance to the order dated 03.11.2014. In substance, the petitioner prays for the following substantive reliefs:-

“b) Issue an appropriate writ directing the respondents to take follow up action consequent to order dated 3.11.2014 (P-7) passed by the respondent no.2 for grant of necessary service benefits after regularization of service period of the petitioner and payment of arrears after re-fixation her pay/pension with 12% interest per annum as elaborated in para 14 of this petition;

AND

C) for issuance of a writ of certiorari for quashing the part of said order (P-7) whereby maternity leave period of the petitioner was also treated leave without pay;

d) Any other order or direction which this Hon'ble Court deems fit in the facts and circumstances of the case may kindly be issued.”

2. The relevant facts, in brief, are required to be noticed.

3. The petitioner was engaged as Social Studies Mistress on

02.02.1985 for a period of 89 days each. She completed four terms of 89 days employment each. She applied for maternity leave which was not granted, however, she absented herself from service. She was unable to rejoin the service for a substantial period. She resumed the service on 17.10.1990. A Civil Writ Petition No.11202 of 1991, filed by the petitioner was disposed of on 27.07.2011, with the following observations:-

In view of the statement made by counsel for the State of Punjab, as the petitioner's services stand regularised with effect from 01.04.1995, the writ petition has been rendered infructuous and is disposed of with a direction to the respondents to re-fix the petitioner's pay scale, grant such increments and other benefits etc. flowing from her regularisation as may be due to the petitioner, within three months from receipt of a certified copy of this order. The petitioner would also be at liberty to agitate by way of an appropriate representation the failure of regularise her absence from 27.01.1986 to 20.10.1990. No order as to costs."

4. Subsequently, her absence from 28.01.1986 to 19.10.1990 was treated as leave without duty (extraordinary leave without pay) under Rule 8.121 of the Punjab Civil Services Rules Volume-I, Part-I.

5. The petitioner, on attaining the age of superannuation, has retired on 30.11.2011. The petitioner's request for re-fixation of pay, increments, proficiency step up, arrears of pay after the said regularization by treating her as a regular employee with effect from 28.01.1986 has been declined by the concerned department (respondents).

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

7. It is not in dispute that on 27.07.2011, the service of the petitioner was regularised with effect from 01.04.1995. Hence, her prayer for regularization of her service from 28.01.1986, is without substance.

Moreover, the respondents have relied upon Rule 4.9 (b) (ii) of the Punjab Civil Services Rules Volume-I, Part-I to contend that the extra ordinary leave taken without providing proper medical certificate is not to be counted towards giving increments.

8. The learned counsel representing the petitioned failed to draw the attention of the Court to any rule to the contrary.

9. In view of the aforesaid, no ground to issue the writ as prayed for is made out.

10. Dismissed.

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

January 23, 2023
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(ANIL KSHETARPAL)
JUDGE

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