

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

2024:PHHC:000954
CWP-7696-2008 (O&M)
Date of Decision: 08.01.2024

Neelam Rani

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. S.K. Sharma, Advocate for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner by way of this writ petition has prayed to direct the respondents to allow the benefit of study leave with pay to the petitioner for the training period undergone by her.
2. Brief facts required to be noticed are that the petitioner was granted permission to join midwifery course of six months by the respondents while she was posted as Staff Nurse. For the said purposes, the petitioner was asked to submit a duly signed agreement containing the condition that leave of kind due will be given to her for the training period. A bond of Rs.25,000/- was required to be submitted by the petitioner undertaking that she shall serve the State for minimum of five years after completion of the course or refund the bond money with interest and thirdly that maternity leave will be granted to the trainees during the period of training. The claim of the petitioner, however, was denied for granting the study leave.

3. As per rule 8.126, of the Punjab Civil Service Rules Volume I, Part I read with Study Leave Rules, 1963, leave may be granted for enabling a government employee to study scientific, technical or similar problems or to undergo special course of instructions. As per Rule 3 (Condition No.1), study leave is required to be granted to a government employee for exigency of public service or for specialized training in a professional or technical subject which has a close connection with the sphere of her duty. The petitioner's joining the course of midwifery as a Staff Nurse, cannot be said to be a course which has no close connection with the sphere of her duties. The asking by the respondents of furnishing bond of Rs.25,000/- to further serve for five years itself reflects that a Staff Nurse who has done her six months midwifery course, would be more advantageous to the State Health Services. Permission for training for the course had already been granted by the respondents. In these circumstances, denying study leave is found to be contrary to the provisions of the rules. It is also noticed that even in the undertaking it has been provided that leave of kind due shall be given for the training period. Since, the petitioner has undertaken training, she would be entitled to salary and the study leave would be granted to her.

4. Almost on similar footings, a judgment has already been rendered by the Division Bench of this Court in the case of Kuldeep Kaur and others vs. State of Punjab and others, CWP-4239-2006, decided on 24.09.2007, wherein the respondents were directed to treat the concerned ANMs therein similar to the earlier case in CWP-212 of 1995, decided on 20.05.2003. The matter travelled upto the Hon'ble Supreme Court and as per

information available on the website of the Supreme Court, it is apparent that SLP Nos.24602-24611/2007, were dismissed by the Hon’ble Supreme Court. Relief has, therefore, been granted to the similar situated employees.

5. Learned State counsel has further relied upon a judgment of this Court in Jaswant Kaur and others vs. State of Punjab, CWP-27280-2016, decided on 19.04.2023, wherein, an observation has been made by the Coordinate Bench that as the petitioners stand retired, in view of considered view, no effective orders can be passed besides study leave is in the nature of concession and the same cannot be claimed as a matter of right.

6. I have considered the said judgment and find that the Coordinate Bench appears to have examined the case of petitioners therein, who may have retired and after superannuation they may have claimed the benefits, whereas, in the present case, the writ petition was filed by the petitioner while she was in service. The case, therefore, is distinguishable and would have no application to the present case.

7. In view of above, the writ petition is allowed. The respondents are directed to release the salary to the petitioner for the period she had undergone training. The respondents are also directed to re-fix the salary and release the arrears within three months henceforth. It is also informed that if the petitioner has retired, her retiral benefits shall be accordingly revised.

8. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

08.01.2024
rajesh

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| 1. Whether speaking/reasoned? | : | Yes/No |
| 2. Whether reportable? | : | Yes/No |