



CWP-19175-2021 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-19175-2021 (O&M)
Date of Decision :22.05.2024

Geeta Rani

...Petitioner

Versus

National Health Mission Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. H.C. Arora, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

In the present petition, grievance of the petitioner is that keeping in view certain fertility treatment being undertaken by her, she could not attend the duties of the post in question, due to which, her services were terminated by the respondents after she reported back on duty and such act of the respondents is totally arbitrary and illegal.

Learned counsel for the petitioner submits that absence from duty of the petitioner was due to her medical fertility treatment, which she was undertaking and unfortunately, despite the said fertility treatment undertaken, she delivered a still born child but her services have been terminated on account of the absence from duty.

Learned counsel for the petitioner further submits that while



issuing notice of motion, the petitioner was allowed to continue in service as operation of the impugned order dated 02.09.2021 (Annexure P/4) was stayed by this Court and there is no complaint qua any absence of petitioner from duty for the last three years and hence, the petitioner be allowed to continue in service on the post of Staff Nurse.

Learned counsel for the respondents submits that the petitioner remained absent from duty at certain given point of time, due to which, an action was taken by the respondents against her. Learned counsel for the respondents concedes the factum that the petitioner was undertaking a fertility treatment and was pregnant and was advised for complete bed rest by the doctor.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Once, it has already come on record that absence from duty of the petitioner due to which, action was taken by the respondents against the petitioner was beyond the control of the petitioner as she was taking treatment and was advised for complete bed rest by the doctor hence, the said period of absence from duty cannot be treated without any valid justification hence, while taking action against the petitioner by impugned order dated 02.09.2021 (Annexure P/4) on the basis of the said absence from duty, which was beyond the control of the petitioner and was on the advise of the doctor so as to take complete bed rest, the respondents should have taken the circumstances into consideration.

Even otherwise, after joining the duty under the interim order of



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this Court, the petitioner is continuously working for the last three years on the said post and nothing has brought to the notice of this Court that the petitioner ever absented from duty or not performing her duty in accordance with her job profile.

Keeping in view the above, by giving the benefit of doubt and by holding that absence from duty for which, action was taken by the respondents against the petitioner so as to terminate her services, was beyond the control of the petitioner, held to be unjustified and hence, the present petition is allowed and impugned order dated 02.09.2021(Annexure P/4) is set aside. It is made clear that henceforth, in case, the petitioner does not discharge the duties of the post in question in any manner or remain absent from duty without any valid justification, the respondents will be at liberty to take action against her.

Present petition allowed in above terms.

Civil miscellaneous application pending, if any, is also disposed of.

May 22, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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