

LPA-404-2023 (O&M)

2025:PHHC:023821-DB



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

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**CM-1113-LPA-2024 in/and
LPA-404-2023**

Date of decision: 18.02.2025

KULWANT KAUR

..APPELLANT

VS.

STATE OF PUNJAB AND OTHERS

..RESPONDENTS

**CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA**

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

Mr. Rohit Ahuja, DAG, Punjab.

DEEPINDER SINGH NALWA, J.

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Heard.

For the reasons mentioned in the application and arguments
addressed, delay of 10 days in filing of appeal is condoned.

Application is disposed of accordingly.

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1. Present Letters Patent Appeal is filed for setting aside judgment
dated 27.02.2023 passed by learned Single Judge, in Civil Writ Petition No.
10956 of 2024.

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2. Brief facts necessary for adjudication of the matter are as under:-

(i) Appellant was appointed as Lecturer in subject of English on 09.07.1990 and promoted to the post of Principal. She applied for leave from 20.03.2010 to 29.03.2015 for self-employment in Canada. This leave was not sanctioned, consequent to which she applied for sanction of Ex-India leave from 26.06.2010 to 15.08.2010 which was also not sanctioned. Nonetheless appellant 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 conditions that no extension in leave shall be granted and after expiry of period of leave, she would report for duty and in case she did not join, it would be presumed that employee has resigned from Government service.

(ii) Admittedly, appellant did not report for duty in August, 2011. It is pleaded that she applied for extension for another period of six months (Annexure P2) on the premise that her daughter has to be admitted in College in January, 2012, she was undergoing coaching classes, therefore, appellant was required to stay abroad. Appellant is then stated to have met with an accident in June 2012 while in Canada and she again sought extension of leave but her request was rejected on 09.08.2012 (Annexure R1/5T). Prior thereto, she was served with charge sheet for willful absence from duty and District Education Officer, Kapurthala was appointed as Inquiry Officer. Despite number of notices issued by Inquiry Officer, appellant did not join the said

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proceedings. Appellant tried to join service in January 2013 while also submitting a request for voluntary retirement with deposit of three months salary. Her request for voluntary retirement was rejected by competent authority on 01.02.2013. Punishing authority accepted the finding of Inquiry Officer and vide order dated 07.02.2014, dismissed the appellant from service.

3. Aggrieved of abovesaid orders passed by the competent authority, appellant filed CWP-10956-2024. Case made out by the appellant in the writ petition is that as she had met with an accident and had hurt her knee, therefore, she was not in a position to come back to join the duty. It is also the case of appellant that once appellant had submitted an application for voluntary retirement, she could not have been treated as absent as it was not willful and as such, the impugned orders are bad in law.

4. Stand of the department before learned Single Judge was that in fact, request made by appellant for grant of leave was never accepted by the Competent Authority and appellant was treated as absent w.e.f. 26.06.2010. Abovesaid writ petition was dismissed by the learned Single Judge.

5. Aggrieved of abovesaid judgment dated 27.02.2023 passed by learned Single Judge, present appeal has been filed. The only ground taken before this Court by the appellant is that as appellant had met with an accident, therefore, she was not in a position to join duty and that her absence was not willful, therefore, order dated 07.02.2014 of dismissal from service passed by competent authority, is bad in law.

6. Learned counsel appearing on behalf of respondent-State has submitted that request made by appellant for grant of leave was never

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accepted by the competent authority. It was also the case of learned counsel for respondent that appellant was served with charge sheet in the month of January 2013. However, appellant never joined inquiry proceedings. Request of appellant for voluntary retirement was rejected by the competent authority on 01.02.2013. Counsel appearing on behalf of the State submitted that in the inquiry, charges were proved against the appellant and on the basis of finding returned by Inquiry Officer, the appellant was rightly dismissed from service on 07.02.2014.

7. Heard learned counsel for parties at some length.

8. It is an admitted fact that appellant did not report for duty on the expiry of sanctioned period of leave on 15.08.2011. She never associated herself in the inquiry which was initiated against her for willful absence from duty. Appellant was correctly dismissed from service on the basis of findings arrived at by Inquiry Officer. It is a matter of record that appellant at the very outset left for Canada without leave being sanctioned in her favour. Subsequently, Ex-India leave was granted to her from 16.08.2010 to 15.08.2011 but still she chose not to return to India. She continued to remain in Canada despite extension of leave not being sanctioned. Argument raised by learned counsel for appellant that once leave was subsequently sanctioned till 15.08.2011, rejection of her request for further extension is illegal, is devoid of any merit. Leave so sanctioned as above till 15.08.2011 was subject to conditions as have been detailed in foregoing paras. It is a settled position that request for leave cannot lead to a presumption of leave being sanctioned. Impugned order dated 07.02.2014 visiting the appellant with punishment of dismissal from service has been correctly passed. Her

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request for voluntary retirement has also been correctly rejected by competent authority.

9. Taking into consideration the abovesaid facts, we do not find any infirmity or illegality in decision dated 27.02.2023 passed by learned Single Judge which calls for interference by this Court.

10. No other argument has been addressed.

11. Appeal is accordingly dismissed with no orders as to costs.

(DEEPINDER SINGH NALWA)
JUDGE

(LISA GILL)
JUDGE

February 18, 2025
Poonam Sharma/rts

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No