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

**CWP-12404-2020(O&M)
Date of decision : 20.01.2026**

Kiranjit Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

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

Present: Mr. Amrik Singh, Advocate for the petitioner.

Mr. Rohit Ahuja, DAG, Punjab.

DEEPINDER SINGH NALWA, J. (Oral)

In the present writ petition, the petitioner is praying for issuance of a writ in the nature of certiorari for quashing the order dated 29.01.2018 (Annexure P-24) vide which the period from 01.10.2011 to 28.02.2017 i.e. the date of retirement of the petitioner has been held to be non-duty period and she has not been held entitled to any backwages although being reinstated in service. The petitioner has also challenged the order dated 14.11.2019 (Annexure P-26) vide which the appeal filed by the petitioner against order dated 29.01.2018 (Annexure P-24) has been dismissed.

2. The brief facts of the case are that the petitioner was initially working on 89 days basis since the year 1994 on the post of S.S. Mistress in the respondent-Department. The services of the petitioner were regularized on 14.05.1997. While the petitioner was in



service as S.S. Mistress in Government High School, Ranbir Pura (Patiala), she applied for Ex-India leave for the period from 01.07.2011 to 30.09.2011 to visit Canada to meet her son and to get her daughter admitted in the College/university. Petitioner was granted Ex-India leave for the abovesaid period vide order dated 25.05.2011 (Annexure P-1). While in Canada, during the aforesaid period of leave from 01.07.2011 to 30.09.2011, the petitioner developed serious physical complications and was advised complete rest for the period from 01.10.2011 to 30.11.2011. Thereafter, the petitioner submitted an application for extension of leave from abroad for the said period on the basis of medical certificate dated 22.09.2011. As per the petitioner, she did not recover from the illness and was diagnosed with "Endometrial Cancer Grade I" vide examination report dated 09.11.2011 (Annexure P-3). The petitioner was further advised complete rest for the period from 01.12.2011 to 31.01.2012, as such, she again applied for extension of leave for the period from 01.12.2011 to 31.01.2012 vide application dated 22.11.2011 (Annexure P-4). The petitioner was operated on 20.01.2012 and was discharged from the hospital on 22.01.2012. It transpires that the petitioner was again advised rest for the period from 01.02.2012 to 30.04.2012. As a consequence of this, the petitioner again applied for extension of leave for the period from 01.02.2012 to 30.04.2012 vide application dated 19.01.2012 (Annexure P-5). The petitioner was further advised rest from 01.05.2012 to 30.06.2012. The petitioner again applied for extension of leave for the period from 01.05.2012 to 30.06.2012 vide



application dated 23.04.2012 (Annexure P-8). However, as the petitioner could not recover completely, she was again advised rest for the period from 01.07.2012 to 30.09.2012. It transpires that the petitioner underwent medical check-up and was again advised rest for the period from 01.10.2012 to 31.12.2012 for treatment of Uterus Cancer and applied for extension of leave for the period from 01.10.2012 to 31.12.2012 vide application dated 22.09.2012 (Annexure P-10). As per the petitioner, during treatment of Cancer, she also suffered from Carpel Tunnel Syndromes, as such, she was again advised complete rest for the period from 01.01.2013 to 31.03.2013. The petitioner again applied for extension of leave for the period from 01.01.2013 to 31.0.2013 vide application dated 21.12.2012 (Annexure P-12). The petitioner was again advised complete rest for the period from 01.04.2013 to 31.05.2013. She again applied for extension of leave for the period from 01.04.2013 to 31.05.2013 vide application dated 26.03.2013 (Annexure P-14). A perusal of facts of the case would show that request made by the petitioner for extension of leave was never sanctioned by the Competent Authority. It transpires that show cause notice dated 01.02.2013 (Annexure P-15) was issued to 148 teachers by the competent authority including the petitioner calling upon the aforesaid absentee teachers to show cause within a period of 30 days as to why action should not be taken against them for being absent from duty failing which necessary further action would be taken. It transpires that the petitioner duly filed reply dated 27.02.2013 (Annexure P-16) stating that she had suffered from Endometrial Cancer



and Carpel Tunnel Syndrome and as such, she is not in a position to join the duty. It was also mentioned in the reply that she had submitted various applications along with medical certificates for extension of leave and had no intention to abandon the job.

3. It transpires that a charge sheet dated 01.02.2013 (Annexure P-20) was issued to the petitioner under the provisions of the Punjab Civil Services (Punishment & Appeal) Rules, 1970. A perusal of abovesaid charge-sheet would show that the petitioner has been held to be absent from duty since 01.10.2011 as request of the petitioner for grant of leave was not approved by the Competent Authority. The petitioner duly filed reply to the charge sheet dated 01.02.2013 (Annexure P-20). Taking into consideration the reply submitted by the petitioner to the charge-sheet, the services of the petitioner were dispensed with vide order dated 08.03.2013 (Annexure P-17) on the ground that petitioner had abandoned the services. Aggrieved against the abovesaid order dated 08.03.2013 (Annexure P-17), the petitioner filed an appeal before the Principal Secretary i.e. Appellate Authority. The petitioner was asked to appear before the Appellate Authority, however, she failed to do so and the abovesaid appeal was also dismissed vide order dated 01.08.2013 (Annexure P-18). Aggrieved against the abovesaid order dated 08.03.2013 (Annexure P-17) vide which the services of the petitioner were dispensed with as well as order dated 01.08.2013 (Annexure P-18) whereby the appeal filed by the petitioner against the order dated 08.03.2013 (Annexure P-17) was dismissed, the petitioner filed Civil



Writ Petition No.15329 of 2014 before this Court which was allowed and abovesaid orders were set aside vide judgment dated 04.07.2017 (Annexure P-19) with a direction to the competent authority to reconsider the case of the petitioner afresh and take necessary action in accordance with law by conducting the regular inquiry and granting opportunity of hearing to the petitioner. The petitioner had attained the age of superannuation on 28.02.2017.

4. In pursuance to the abovesaid order dated 04.07.2017 (Annexure P-19) passed by this Court, a regular departmental enquiry was conducted, charges against the petitioner were proved by the Enquiry Officer vide enquiry report dated 01.12.2017 (Annexure P-21). The petitioner filed objections to the abovesaid enquiry report. The punishing authority passed an order dated 29.01.2018 (Annexure P-24), whereby the petitioner was held to be entitled for reinstatement in service but without payment of backwages and the period of absence till the date of her retirement was held to be non-duty period for all intents and purposes. A perusal of the order dated 29.01.2018 (Annexure P-24) passed by the Punishing Authority would show that the authority has held that the imposition of penalty of removal from service would not be justified at this juncture when with the afflux of time, the petitioner has attained the age of superannuation. Further, the punishing authority has also taken into consideration that petitioner had got permanent residency of the foreign country and her intention was to settle down permanently in foreign country. Aggrieved against the abovesaid order dated 29.01.2018 (Annexure P-24), the petitioner filed



an appeal before the Appellate Authority. The said appeal was also dismissed vide order dated 14.11.2019 (Annexure P-26). A perusal of the order dated 14.11.2019 (Annexure P-26) passed by the Appellate Authority would show that Appellate Authority has taken into consideration the factor of sympathy and order passed by the Punishing Authority whereby petitioner was held entitled for reinstatement. The appellate order would further show that it has been held that the petitioner had not worked from 01.10.2011 to 28.02.2017, as such, no other benefit can be granted to the petitioner and the order passed by the punishing authority was maintained. Aggrieved against the order dated 29.01.2018 (Annexure P-24) whereby, although the petitioner is held entitled to be reinstated in service without backwages and the period of absence till her retirement was held to be non-duty period and the order dated 14.11.2019 (Annexure P-26), passed by the Appellate Authority, the petitioner has filed the present writ petition challenging the same.

5. A perusal of order dated 07.01.2025 passed by this Court would show that learned counsel for the petitioner, on instructions, had given up the claim for backwages and had only restricted his claim to the absent period to be treated as qualifying service i.e. on duty period for the purpose of pension.

6. Learned counsel for the petitioner submits that once the petitioner has been reinstated in service, there is no reason for the intervening period from the date of her absence till retirement to be treated as non-duty period for all intents and purposes. He further



submits that the period of absence of petitioner till her retirement cannot be treated as a non-duty period, as it is not one of the punishment, as per relevant rules.

7. Learned counsel for the respondents submits that treating the period of absence of petitioner till her retirement as non-duty period is not a punishment. Whenever an employee is reinstated, after his/her services were terminated, the said period has to be treated in some manner and as per the relevant rules, the impugned order is legal and valid.

8. I have heard learned counsel for the parties at length and perused the paper-book along with records and the relevant rules.

9. The only issue for consideration before this Court is whether the period of absence in the case of petitioner till her retirement can be treated as a 'non-duty period'.

10. A perusal of the facts of the case would show that the charge-sheet dated 01.02.2013 (Annexure P-20) was issued to the petitioner and the charges of absence have been proved by the Enquiry Officer vide enquiry report dated 01.12.2017 (Annexure P-21). However, taking into consideration that imposition of penalty of removal from service would not be justified, the punishing authority passed an order dated 29.01.2018 (Annexure P-24), whereby, the petitioner was reinstated in service without payment of backwages and the period of absence of petitioner till her retirement has been treated as a non-duty period. It is well settled law that whenever an employee is reinstated in service after her dismissal/removal/termination, the period



of absence has to be treated in some manner, as such, the contention raised by learned counsel for the petitioner that period of absence of petitioner treated as non-duty period amounts to punishment cannot be accepted. A perusal of the facts of the case would show that the charges have been proved against the petitioner of her absence from duty by the Enquiry Officer. For the purpose of adjudication of this case, it is also relevant to refer to the relevant Rule i.e. Rule 7.3 of the Punjab Civil Services Rules Volume I, as applicable in the case of petitioner, which is reproduced hereunder:-

“7.3. (1) When a Government employee, who has been dismissed, removed or compulsorily retired, is reinstated as a result of appeal, revision or review, or would have been so reinstated but for his retirement on superannuation while under suspension or not, the authority competent to order re-instatement shall consider and make a specific order—

(a) regarding the pay and allowances to be paid to the Government employee for the period of his absence from duty including the period of suspension, preceding his dismissal, removal or compulsory retirement, as the case may be; and

(b) whether or not the said period shall be treated as a period spent on duty.

(2) Where the authority competent to order re-instatement is of opinion that the Government employee, who had been



dismissed, removed or compulsorily retired, has been fully exonerated, the Government employee shall, subject to the provisions of sub-rule (6), be paid his full pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended, prior to such dismissal, removal or compulsory retirement, as the case may be:

Provided that where such authority is of opinion that the termination of the proceedings instituted against the Government employee had been delayed due to reasons directly attributable to the Government employee it may, after giving him an opportunity to make representation and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the Government employee shall, subject to the provisions of sub-rule (7), be paid for the period of such delay only such amount (not being the whole) of pay and allowances, as it may determine.

(3) In a case falling under sub-rule (2), the period of absence from duty including the period of suspension preceding dismissal, removal or compulsory retirement, as the case may be, shall be treated as a period spent on duty for all purposes.

(4) In cases other than those covered by sub-rule (2) including cases where the order of dismissal, removal or



compulsory retirement from service is set aside by the authority exercising powers of appeal, revision or review solely on the ground of noncompliance with the requirements of clause (2) of article 311 of the Constitution and no further inquiry is proposed to be held, the Government employee shall, subject to the provisions of sub-rules (6) and (7), be paid such amount (not being the whole) of pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be, as the competent authority may determine, after giving notice to the Government employee of the quantum proposed and after considering the representation, if any, submitted by him in that connection within such period as may be specified in the notice:

Provided that any payment under this sub-rule to a Government employee other than a Government employee who is governed by the provisions of the payment of Wages Act, 1936 (Act 4 of 1936) shall be restricted to a period of three years immediately preceding the date on which order for re-instatement of such Government employee are passed by the authority exercising the powers of appeal, revision or review, or immediately



preceding the date of retirement on superannuation of such Government employee, as the case may be.

(5) In a case falling under sub-rule (4), the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall not be treated as a period spent on duty, unless the competent authority specifically directs that it shall be so treated for any specified purpose.”

11. A cogent reading of the abovesaid rules would show that where the competent authority had passed an order of reinstatement in a case of employee who is fully exonerated, the period of absence from duty shall be treated as a period spent on duty for all purposes. In other case, it will be treated as non-duty period unless the competent authority specifically directs that it shall be treated for any specified purpose. A perusal of the facts of the case would show that the petitioner was not exonerated and the charges of absence were duly proved in the case of petitioner and taking into consideration the abovesaid facts, the competent authority has decided to treat the absence period of petitioner till retirement as ‘non-duty period’.

12. Taking into consideration the facts of the case and the relevant rules, this Court finds no infirmity in the impugned orders dated 29.01.2018 (Annexure P-24) and 14.11.2019 (Annexure P-26).

13. Accordingly, the present writ petition is dismissed.



14. Pending application(s), if any, shall also stand(s) disposed of.

20.01.2026	(DEEPINDER SINGH NALWA)
<i>d.gulati</i>	JUDGE
Whether speaking / reasoned :	Yes No
Whether Reportable :	Yes No