
(2012) 04 P&H CK 0108
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 23078 of 2011

Kavita Kapoor

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 03-04-2012

Acts Referred:

Citation : (2012) 04 P&H CK 0108

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : Sanjay Verma, for the Appellant; Sunil Nehra, D.A.G., Haryana, for the Respondent

Final Decision : Allowed

Judgement

Augustine George Masih

1. The petitioner has approached this Court challenging the order dated 29.11.2011 (Annexure P-4) vide which the Child Care Leave granted to the petitioner from 03.11.2011 to 15.05.2013 has been cancelled on the ground that the studies of the students are interrupted as annual examinations of the students are near and she was directed to join her duties immediately. Counsel for the petitioner contends that as per the policy decision of the respondents dated 05.02.2010 (Annexure R-1) the petitioner is entitled to Child Care Leave (CCL) upto 730 days during the entire service to a woman Government Employee to take care of her eldest surviving children below the age of 18 years only. The petitioner in pursuance to the said policy applied to the competent authority for grant of CCL for 562 days i.e. from 01.11.2011 to 15.05.2013 which was duly considered and granted by the Block Education Officer, Chhahrauli, District Yamuna Nagar who is the competent authority under the Rules to grant earned leave to the petitioner. After approval of the Child Care Leave the petitioner proceeded on the said leave and it is in the midst of this leave the petitioner has now been directed to rejoin her duties vide order dated 29.11.2011 (Annexure P-4). He contends that as per the policy itself the claim of Child Care Leave

although is not a matter of right but the only requirement is to apply for sanction of leave to the competent authority and after the said sanction the petitioner can proceed on Child Care Leave which the petitioner had duly applied for and therefore, the impugned order cannot sustain. His further contention is that even if such an order could have been passed at least an opportunity of hearing should have been granted to the petitioner and the order of cancellation of Child Care Leave passed by the respondents is in total violation of the principles of natural justice.

2. Reply to the petition has been filed by the respondents wherein the reason assigned for cancellation of Child Care Leave of the petitioner is that the studies of the students are suffering. This may be a good ground for cancelling the CCL but when the same has been duly considered and decided by the competent authority to grant leave on an application moved by the employee the same should have been considered initially by the competent authority and by resorting to this method no person would ever be in a position to avail of such a leave. In any case, the principles of natural justice have been violated in the present case and therefore, the order impugned herein cannot sustain. In view of this, the petition is allowed and the impugned order dated 29.11.2011 (Annexure P-4) as also the subsequent orders passed in pursuance thereto are hereby quashed. The petitioner is entitled to continue on Child Care Leave as sanctioned in her favour. However, the respondents, if permissible under law, may proceed to take appropriate steps in accordance with law for directing the petitioner to rejoin the duties.