
(2013) 08 P&H CK 0568

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 14589 of 1991 (O and M)

Krishana Devi

APPELLANT

Vs

The State of Punjab and Another

RESPONDENT

Date of Decision : 13-08-2013

Acts Referred:

Citation : (2013) 08 P&H CK 0568

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Satya Pal Jain, Mr. Dheeraj Jain and Mr. Vijay Kumar Chaudhary, for the Appellant; P.S. Bajwa, DAG, Punjab, for the Respondent

Judgement

K. Kannan, J.—The writ petition is a challenge to a denial of study leave accorded to the petitioner and for which, she was claiming the salary. She was a Staff Nurse having entered the service on 12.05.1982 and she had given an application on 31.03.1987 for joining B.Sc. Nursing (Post-Basic) course at Chandigarh. She was interviewed among other candidates between the dates 18.05.1987 and 19.05.1987 and selected to the course on 13.07.1987. When a plea was made for the benefits of study leave, it was rejected on the ground that she did not have 5 years experience at the time when she gave the application. The learned senior counsel for the petitioner would argue that the relevant rules relating to study leave reads thus:-

(5) Study leave shall not be ordinarily be granted to a Government employee-

i) Who has rendered less than five years" service under the Government; or

ii).……..

2. He would state that on the date when she was selected, she had 5 years of service and, therefore, there was no justification for denying to her the benefits of study leave. The counsel for the State would argue that at the time when the candidates were selected for the study leave, they were informed that the issue

of whether they would be given the benefits will be examined by the Government and they will abide by the Government's decision. The counsel would also state that on the date of application, she did not have 5 years experience.

3. If the rejection of the claim for the benefits of study leave had been made by the State referring to the information given to the candidates that the respective entitlements will be considered subject to the decision of the State and the State decided not to give the benefits of study leave, then there would have been no further right for the petitioner to see through this writ petition. If, however, the rejection of the claim is on the basis that she did not have 5 years experience, it must only be examined from the point of view of whether on the day when she joined the course, she had less than 5 years experience or not. If she had 5 years experience on the date when she was admitted to the course, the question of denying to her the benefits of study leave in the manner made through the impugned order does not arise. The impugned order is set aside and the writ petition is allowed. The benefits payable to the petitioner shall be calculated and released to her with interest at 6% from the date when it fell due till the date of payment. The writ petition is ordered on the above terms.