
(2019) 06 JH CK 0001
In the Jharkhand High Court
Case No : Writ Petition (S) No. 6039 Of 2018

Sagarika Das

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 21-06-2019

Acts Referred:

Central Civil Services (Leave) Rules, 1972 — Rule 43(4)(b)

Citation : (2019) 06 JH CK 0001

Hon'ble Judges : H.C. Mishra, J;Deepak Roshan, J

Bench : Division Bench

Advocate : Ruby Pandey, Rajeev Sinha, B.K. Prasad

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner and the learned counsel for the respondents.

2. The petitioner is aggrieved by part of the impugned order dated 19.04.2017, passed by the Central Administrative Tribunal, Patna, Circuit Bench,

Ranchi, (herein after referred to as the 'Tribunal'), in TA/051/00001/2016, whereby, the application filed by the petitioner against the punishment

imposed upon her in a disciplinary proceeding, for her alleged unauthorised absence from duty, though was allowed by the Tribunal, setting aside the

punishment imposed upon her, and she was also allowed her admissible leaves by the Tribunal for the period she was absent from the duty, but she is

aggrieved by the fact that the following three reliefs were denied to the petitioner by the Tribunal, due to which, the present writ application has been

filed by the petitioner:-

(I)Direct Respondent No.1 to initiate an enquiry against the Respondent No.3 and 4 and other officers who were responsible for disciplinary

proceeding against the applicant on the basis of forged, tampered and fabricated documents.

(ii) Direct the Respondents to pay an amount of Rs. Fifty Lakhs to the Applicant as compensation for harassment, atrocity, defamation through false

legal proceedings, discrimination and mental agony.

(iii) Set aside the undated Report submitted by (Dr.) Mrs. Mangla Kohli forwarded to the Applicant on 19.0.2014.

3. The undisputed facts of the case are that the petitioner was appointed as a Staff Nurse in the Central Institute of Psychiatry (CIP) where she

joined on 28.01.2011. She went on study leave for two years from 15.07.2009 till 14.07.2011, and she reported to work on 15.07.2011, when she was

having pregnancy of 33 weeks. She was medically advised to proceed on maternity leave which she took from 19.07.2011 till 14.01.2012. During her

maternity leave, she gave preterm birth to a child on 20.08.2011, and claiming that the child was under weight and was in constant need of care and

medical attention, she applied for extension of her maternity leave for 90 days, initially on 10.01.2012, which was rejected by the respondent

authorities, but in spite of rejection of her first application itself, she continued on leave giving further applications for extension of her leave from time

to time, which were also rejected, asking her to resume duty. As a matter of fact she did not resume her duty and she continued in leave. She finally

resumed her duty on 25.11.2013 and she was subjected to departmental proceeding on the ground of unauthorised absence, and there was also one

another charge, alleging that she had applied for a post in Government of India, without proper permission. However, the fact remains that in the

departmental proceeding this charge was not found to be proved against her. The other two articles of charges, on which, she was found guilty by the

Enquiry Officer, may be summarised as follows:-

(i) that she had been found absent unauthorizedly w.e.f. 15.01.2012 onwards. This shows lack of devotion to duty;

(ii) that she had been absenting herself from duty unauthorizedly from 15.01.2012 and did not join her duty willfully in violation of written orders of the higher authority. This shows gross insubordination.

4. For the aforesaid two charges, she was found guilty, and after supplying the enquiry report vide letter dated 17.06.2014, and after considering her

representation, the Disciplinary Authority imposed the punishment of reducing her pay to the stage of Rs.9300/- in the pay band of Rs.9300-34800 +

Grade pay of Rs.4600/- w.e.f. 01.05.2015 for a period of five years, with the condition that she would not earn increments during the period of

reduction, and on expiry of the said period, it would have the effect of postponing her future increments.

5. The petitioner preferred appeal against her punishment before the Appellate Authority. In the meantime, she also approached the Principal Bench

of Central Administrative Tribunal, by filing OA No.556 of 2013, praying for a direction to grant leave to her from 15.01.2012 in accordance with Rule

43(4)(b) of CCS (Leave) Rules. The Principal Bench of the Tribunal disposed of the said application by order dated 12.05.2015, observing that the

Appellate Authority shall dispose of the appeal, in which, the applicant may raise the issue of leave and accordingly, depending upon the Appellate

Authority's order, the applicant may initiate legal proceedings. In the meantime, the petitioner had also moved before the Principal Bench of the

Tribunal and the Delhi High Court for certain matters, which are not very relevant for the disposal of this writ application.

6. The Appellate Authority also took into consideration the leave matter of the petitioner as directed by the Principal Bench of the Tribunal, and upon

consideration of the appeal, the Appellate Authority reduced the penalty by order dated 11.12.2015, to the effect that her pay would be reduced to the

lowest stage of Rs. 9300/- in the pay band of Rs.9300-34800 + Grade pay of Rs.4600/- w.e.f. 01.05.2015 for a period of three years with the

condition that she would not earn increment during the period of reduction, but on the expiry of the said period of reduction, it shall have no effect of

postponing her future increments.

7. The petitioner again challenged the order passed by the Appellate Authority before the Principal Bench of Central Administrative Tribunal, New

Delhi, which was transferred to the Central Administrative Tribunal, Patna, which by the impugned order dated 19.04.2017, allowed the application of

the petitioner, so far as grant of leave and the punishment imposed in the disciplinary proceeding are concerned, quashing the same, and also directing

the leave to be granted to the petitioner, adjusting all kinds of leaves due to her, and in case there is no leave available in her account, to adjust the

balance period by granting extraordinary leave without pay, but without break in service or other adverse consequences. However, the aforesaid three reliefs quoted in paragraph 2 of this order, have been denied to the petitioner by the Tribunal, which has been challenged in the present writ application.

8. Learned counsel for the petitioner has submitted that the petitioner had been unnecessary and illegally harassed by the respondents, particularly

respondent Nos. 3 & 4 and as such, it was a fit case, in which, the disciplinary proceeding should have been directed to be initiated against those

respondents and looking into the harassments she was subjected to by the respondent authorities, she was also entitled to the compensation of Rs.50

Lakhs as prayed by her. Additionally there is also a prayer for payment of her dues with interest @ 18%. Learned counsel accordingly, submitted that

the action against the respondents and the compensation, as prayed for, be allowed by this Court.

9. Learned counsel for the respondents have opposed the prayer.

10. Having heard learned counsels for both the sides, and on the basis of the materials on record, we are unable to accede to the request of the

learned counsel for the petitioner. Simply because of the fact that the punishment imposed in a departmental proceeding against the petitioner, has

been quashed by the Tribunal, that does not render the respondent authorities initiating the departmental proceeding against the petitioner, liable to any

departmental proceeding against them. We find from the record that there were only exchange of letters from both the sides. The respondents

rejecting the applications for extension of leave, asking her to report on duty, and the petitioner filing successive applications there for. There is nothing

on the record to suggest that after the rejection of her request for extension of leave, she ever reported no duty and explained her difficulties to the

respondents personally, and even then she was harassed by the respondents. Indeed when she reported her duty after completing the study leave,

looking into her difficulties due to her pregnancy, she was medically advised to proceed on maternity leave, for which she applied, and the same was

allowed. Had she respected the orders of the higher authorities to resume her duty, and explained her difficulties personally, all these disputes might

not have arisen. In the facts of this case, we find that the petitioner was not

entitled to any further reliefs, as have been allowed to her by the Tribunal, and she has been granted adequate reliefs by the Tribunal. No case is made out even for the grant of compensation of Rs.50 Lakhs, or of penal interest @ 18%, as claimed by the petitioner.

11. In the facts of this case, we do not find any illegality in the impugned order dated 19.04.2017, passed by the Tribunal, in TA/051/00001/2016.

There is no merit in this writ application and the same is accordingly, dismissed.