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**(2012) 02 P&H CK 0258**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : CWP No. 2094 of 1994**

Smt. Pushpa Rani Vaid

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

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**Date of Decision :** 17-02-2012

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2012) 02 P&H CK 0258

**Hon'ble Judges :** Paramjeet Singh, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Paramjeet Singh, J.—The instant writ petition has been filed under Article 226 of the Constitution of India praying for quashing of order dated 07.09.1992 (Annexure P-9) passed by the Director, Health & Family Welfare, Punjab, Chandigarh and order dated 13.12.1993 (Annexure P-11) passed by Secretary, Punjab Government, Health & Family Welfare Department, Punjab.

2. Brief facts of the case are that Smt. Pushpa Rani-petitioner was appointed as Staff Nurse with the respondent-department and was posted at Primary Health Centre Sudhar. In the year 1988 she suffered from mental depression, headache and arthritis and remained on leave w.e.f. 21.03.1988 to 16.04.1988, 25.04.1988 to 28.05.1988 and then from 06.06.1988 to 08.07.1988. When she was on leave from 6.06.1988 to 8.07.1988, she was transferred from Sudhar to Sidhwan Bet by Civil Surgeon, Ludhiana vide order dated 03.06.1988. It is alleged that after availing leave from 06.06.1988 to 08.07.1988 when petitioner went to join the service at Primary Health Centre, Sudhar, she was informed that as she stood transferred to Sidhwan Bet, she was relieved on 08.07.1988 (AN) and that she should join at her new posting. Petitioner was given joining time from 9.07.1988 to 14.7.1988. Petitioner started handing over the charge from 8.7.1988 and continued till the joining time to which she was entitled to. Petitioner joined her new place of posting on 15.07.1988 (FN) at Sidhwan Bet

and the duly endorsed joining report was sent to Civil Surgeon Ludhiana by the SMO, Sidhwan under intimation to the Director Health Service vide office Memo No.1305 dated 29.7.1988.

3. Immediately after joining the new place of posting, petitioner availed four days casual leave from 16.7.1988 to 20.07.1988 including suffix to complete the unfinished charge at Sudhar. On expiry of leave, she went to Sidhwan Bet and joined her duty on 21.07.1988. She again proceeded on four days casual leave and went to Sudhar after duty hours to complete the unfinished charge and ultimately handed over the complete charge in the late evening and obtained No Due Certificate from Senior Medical Incharge on 21.07.1988.

4. Petitioner who was already suffering from mental depression, acute headache and arthritis. It further aggravated by cumbersome period of handing over of charge. Petitioner telephonically informed Senior Medical Officer that she was not in a position to join her duties and sent medical certificate vide registered A.D. dated 29.07.1988 which was duly received by Senior Medical Officer Sidhwan Bet, who returned the original certificate vide letter dated 02.06.1989 and directed the petitioner to resume the duty without any delay as her leave was not sanctioned. Thereafter petitioner received a letter dated 07.11.1989 (Annexure P-1) wherein she was directed to appear before the Civil Surgeon for medical examination. She appeared before the Civil Surgeon on 06.12.1989 and it was confirmed by Civil Surgeon that petitioner was suffering from "Anxiety Neurosis with Ch. Endogenous depression with parkinsonism (drug induced) with Ostaoarthritis e/1 knee joints". In the meantime petitioner submitted an interim earned leave application from 22.07.1988 to 10.3.1990 to the Senior Medical Officer, Sidhwan Bet and requested him to sanction the leave as she needed money badly for proper treatment. After lapse of time she was declared medically fit and was advised that she could join duty from 17.08.1990. Petitioner forwarded consolidated earned leave application vide registered letter dated 21.8.1990 for the period from 22.07.1988 to 21.09.1990 to the Civil Surgeon, Ludhiana with copies to Senior Medical Officer, Sidhwan Bet, Director Health and Family Welfare, Punjab. The detail of the letters/reminders sent thereafere by petitioner is as under:

Sr. No.

On

To

Copy to

(A)

05.10.1990

Director Health, Punjab

SMO, Sidhwan with Regd. A.D.

(B)

05.10.1990

Civil Surgeon, Ludhiana

SMO, Sidhwan under A.D.

(C)

13.11.1990

Civil Surgeon, Ludhiana

Director, Health, under Regd. A.D.

(D)

19.12.1990

Civil Surgeon, Ludhiana

Director, Health under Regd. A.D.

(E)

22.01.1991

Civil Surgeon, Ludhiana

Civil Surgeon, Ludhiana

(F)

15.02.1991

Director Health, Punjab

Civil Surgeon, Ludhiana

(G)

22.03.1991

Director Health, Punjab

Civil Surgeon, Ludhiana

(H)

26.04.1991

Director Health, Punjab

Civil Surgeon, Ludhiana

(I)

11.07.1991

Director Health, Punjab

Civil Surgeon, Ludhiana

(J)

16.07.1991

Director Health, Punjab

Civil Surgeon, Ludhiana under Regd. A.D.

(K)

23.08.1991

Director Health, Punjab

Civil Surgeon, Ludhiana

(L)

13.9.1991

Director Health, Punjab

Civil Surgeon, Ludhiana under REgd. A.D.

(M)

17.10.1991

Director Health, Punjab

Secretary to Govt. Punjab,

Health Department, under

Regd. A.D.

5. There was no response from the Director Health and the Secretary, Health Department. Though the petitioner was informed by Civil Surgeon that due to long period of leave of the petitioner, he cannot do anything but forwarded the case to the Director, Health for sanction of leave and posting orders. Petitioner in her letter dated 21.08.1990 by typographical mistake mentioned the leave period as 22.8.1987 to 10.03.1990 instead of 22.7.1988 to 10.03.1990 but this was never repeated in the subsequent letters. The respondent-authorities vide order dated 28.7.1992 (Annexure P-6/T) held that period of leave from 08.7.1988 to 24.1.1992 without approval shall be treated as leave without pay and allowances and petitioner was awarded with minor punishment of censure. On a review petition filed by the petitioner, the Director, Health and Family Welfare, Punjab vide order dated 07.09.1992 (Annexure P-9/T) considered the case of the petitioner leniently and modified the earlier order dated 26.7.1992 (P-6/T) and ordered that her absence for period from 08.07.1988 to 24.01.1992 be treated

as leave of the kind due. However the punishment of censure remained unchanged and petitioner was warned to be careful in future.

6. Petitioner filed statutory appeal before the Secretary-respondent No.1 which was not being decided by respondent No.1. Petitioner approached this Court by filing CWP No.4747 of 1993 seeking direction to Secretary to decide the appeal within a stipulated time. In compliance to direction issued by this Court, Secretary-respondent No.1 took up the matter and rejected the appeal of the petitioner vide order dated 13.12.1993 (Annexure P-11/T) by recording a finding that petitioner remained on unauthorized absence from duty from 08.07.1988 to 24.01.1992, therefore, the said period cannot be treated as duty period. The respondents submitted written statement to the writ petition.

7. I have heard learned counsel for the parties and perused the record.

8. Learned counsel for the petitioner has submitted that petitioner was suffering from mental depression, headache and arthritis and she was not in proper senses due to which she could not give proper application in time. As such the leave period of the petitioner from 08.07.1988 to 24.01.1992 be treated as duty period. On the other hand, learned counsel for the respondents-State has opposed the contention of learned counsel for the petitioner.

9. It is admitted fact that petitioner did not join the duty from 08.07.1988 to 24.01.1992. She had filed CWP No.4747 of 1993, wherein she claimed that she was on leave for the period from 08.07.1988 to 24.01.1992. Not only this in her application dated 13.11.1990 she has stated that she suffered attack of acute depression, headache and arthritis in July 1988. Therefore, on this ground her assertion that she was on leave previous to July 1988, is incorrect. Attention of this Court has been drawn to various applications submitted by the petitioner, wherein it has been stated that she had sent application for leave from 22.7.1987 to 10.3.1990 and had requested the authorities for its sanction. I do not consider that the orders passed by the respondent authorities suffer from any legal infirmity. Admittedly the petitioner has absented herself from duty without sanction of leave. Initially, the period of leave of the petitioner was treated as leave without pay and allowances but on a review petition filed by petitioner lenient view has been taken and the period from 8.07.1988 to 24.01.1992 was ordered to be treated as leave of kind due.

10. Learned counsel for the petitioner has not been able to point out that on which ground the period during which petitioner remained absent from duty should be treated as duty period when she had never performed her duty during this period. I do not find any merit in the contention of learned counsel for the petitioner. No ground is made out to treat the period in question on duty merely for the reason she was under depression during that period.

11. Learned counsel for the petitioner further contended that the order (Annexure P-11) passed by the appellate authority is non-speaking and deserves to be quashed. It is an admitted fact that petitioner had been moving

applications through her husband and her husband visited the office of Civil Surgeon Ludhiana on 19.12.1990. Petitioner herself stated that she was declared fit by the doctor and could join the duty from 17.08.1990. When she was declared fit by the Doctor to join the duty from 17.08.1990 then there was no occasion for her husband to put her career at stake. The appellate authority has recorded a categorical finding that she attended the office from 15.07.1988 to 21.07.1988 and also availed joining time from 09.07.1988 to 14.07.1988. But in her letter dated nil she had applied for leave from 22.07.1987 to 10.03.1990. She repeated this fact vide her application dates 05.10.1990, 13.11.1990 and 10.06.1991. She joined her duties from 15.07.1988 to 21.07.1988 then there was no requirement to apply for leave from 22.07.1987 to 10.03.1990. She herself admitted this fact. The respondent-authorities have recorded a finding that petitioner was telling lie. As such she cannot be allowed to be treated as on duty during that period. Learned counsel for the petitioner has failed to convince this court that in spite of joining service on various dates she has been writing to the authorities that she had applied for leave from 22.07.1987 to 10.03.1990. It is proved on record that she has joined the duty in the intervening period. Even having been declared fit to join the duty, she did not join the duty rather her husband kept making representation on her behalf.

12. In view of above discussion, I do not find any ground to interfere with the impugned orders passed by the competent authorities.

13. No merit.

14. Dismissed.

15. No order as to costs.