
(2015) 02 J&K CK 0003

In the Jammu And Kashmir High Court

Case No : SWP No. 2258 of 2013 and CMP No. 3667 of 2013

Zaina Akhter (Mst.)

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 19-02-2015

Acts Referred:

Citation : (2016) 4 JKJ 423

Hon'ble Judges : Mr. Muzaffar Hussain Attar, J.

Bench : Single Bench

Advocate : Mr. M.M. Khan, Advocate, for the Appellant/Petitioner; None, for the Respondents

Final Decision : Disposed off

Judgement

Mr. Muzaffar Hussain Attar, J. (Oral) - The petitioner, in view of the pleadings of the writ petition and documents enclosed therewith, was

constrained to leave the State. The material is placed on record to show that the family of the petitioner became victim of the militancy. Her father's

residential house, where, she was living at Mattan, was damaged due to blast caused by the militants and case FIR. No. 78/1990 was registered at

Police Station Anantnag.

2. The petitioner, in order to save her life, was compelled to leave the State.

3. The petitioner has placed on record copy of the Order No. 19 of 2011 dated 08th January, 2011, where under, one, Smt. Amina Qadir, Sr.

Nurse, was permitted to resume duty and almost 14 years period of unauthorised absence was treated as dies-non.

4. The survival is basic instinct of a human being. A person, who is facing threat to his /her life, would leave everything including his/her job to save

his/her life.

5. The facts of this case are sufficient to show that the petitioner did not remain absent from duty out of her own volition, but was compelled by

the circumstances to stay away from her duty.

6. The case of the petitioner in the afore stated circumstances is a special case which ought to have been dealt with by the Authorities in the like

manner. In fact respondents have dealt with the case of Smt. Amina Qadir, Sr. Nurse, in a humane manner. The like treatment was to be given to

the petitioner as well.

7. For the above stated reasons, this writ petition along with connected I.A's is disposed of in the following manner:-

By issuance of writ of Certiorari, Order No. 358 of 2010 dated 25th May, 2010 issued by respondent no. 2 is quashed. The respondents are

directed to re-consider the case of the petitioner in the light of observations made in this order and consider her case in the manner the case of

Smt. Amina Qadir, Sr. Nurse has been considered. The respondents to consider and pass orders within six weeks from the date copy of this order

is served.