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**CENTRAL ADMINISTRATIVE TRIBUNAL,  
CHANDIGARH BENCH,  
CHANDIGARH.**

T.A.No.060/000001/2014 in  
CWP No.4258/1995

Date of Decision : 29.8.2014  
Reserved on : 27.08.2014

**CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER  
HON'BLE DR. BRAHM A. AGRAWAL, JUDICIAL MEMBER**

Mrs. Mamta Gakhar, D/o Shri Ram Chand, C/o Shri Jagmohan Jaggi, B-II/50, Street No.2, Sangat Pura Basti, Nabha.

Petitioner  
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Versus

1. The Commissioner, Kendriya Vidyalaya Sangathan, New Mehroli Road, New Delhi-57.
2. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, 3007, Sector 20/C, Chandigarh.
3. The Principal, Kendriya Vidyalaya No.1, Bathinda Cantt.

.... Respondents

Present: Mr. S.P.Garg, counsel for the applicant  
Mr. R.K.Sharma, counsel for the respondents

**ORDER**  
**HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)**

1. CWP No.4258 of 1995 was filed on behalf of the petitioner seeking a writ in the nature of Mandamus directing the respondents to grant vacation salary, maternity leave salary and to issue the experience certificate and increment to the petitioner with interest.
2. This Petition was transferred for decision to the C.A.T. Chandigarh Bench through order dated 03.12.2013. It has been stated in the petition that the petitioner was appointed as Post Graduate Teacher on

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adhoc basis through Employment Exchange in Kendriya Vidyalaya No.I, Bathinda Cantt, respondent no.2 (Annexure P-1). During her service period, there were summer vacations from 05.05.1991 to 23.06.1991 and from 03.09.1991 to 01.12.1991 the petitioner availed Maternity Leave. However, the petitioner was not released salary for the vacation period or for the period of Maternity Leave. She represented in this regard through representations dated 21.04.1992 and 24.11.1993, but to no effect. The petitioner thereafter resigned from service w.e.f. 27.04.1992. Although the petitioner made numerous representations and met the respondents several times, no action was taken by the respondents.

3. It is stated in the petition that the claim of the applicant for salary for the summer vacation period was covered by Clause 58 of the Education Code for Kendriya Vidyalaya which reads as follows:-

"58. Admissibility of Vacation Pay to Teachers and other staff categorized as "Vacational":-

The teachers and other staff of Vidyalayas who have been classified as Vacational and who are not called for duty during the long vacation (Summer / Winter / Monsoon) shall be entitled to vacation pay only when they complete five months' continuous service (excluding the long vacation break) either on the date on which the vacation begins or subsequently.

In cases where a staff member does not complete the minimum period of service of five months mentioned above when the vacation begins, he may be paid the 'Vacation Pay' for the period of vacation later on when he completes five months' service excluding vacation period. In other words, the vacation pay can be paid to such a staff member, but only on his completing five months' period of service in the Vidyalaya. The staff member should have been on duty on the last working

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day before the vacation and should have continued to work after vacation.

Part-time teachers are not entitled to any vacation pay."

Besides, under Rule 79 of the Education Code all categories of staff employed in the Kendriya Vidyalayas on regular basis and not on part-time basis are entitled to medical benefits of the same scale under the same terms as admissible to corresponding categories of Government employees under Central Services (Medical Attendance) Rules, 1944, the applicant was entitled to Maternity Leave also. The Sangathan employees were governed by the CCS (Leave) Rules, 1972 and Rule 43 of these Rules dealt with Maternity Leave. Since the respondents had delayed payment of the rightful dues of the applicant for a very long time, she was entitled to interest on the same also.

4. In the written statement filed on behalf of the respondents the facts of the matter have not been disputed. It is stated however that the employees of the Kendriya Vidyalaya Sangathan are covered by the Accounts Code in matters relating to Vacation Salary, Maternity Leave Salary, Increments etc. As per Article 137 of the Accounts Code only regular staff were entitled to vacation pay after completion of five months service. The petitioner was appointed on adhoc basis and not on regular basis, hence she was not entitled to salary for the vacation period. Besides, the petitioner was not granted Maternity Leave but was granted Extraordinary Leave for the period from 03.09.1991 to 01.12.1991, as per copy of application dated 29.08.1991 and orders passed by respondent

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no.3 thereon (Annexure R-3). Further, increments are given to those employees who working continuously for a full year period. The petitioner had not worked regularly for one complete year. She had not worked during the period of summer vacation w.e.f. 05.05.1991 to 23.06.1991 and was also on Extraordinary Leave w.e.f. 03.09.1991 to 01.12.1991. It has also been clarified that as per the offer of appointment on 02.02.1991, the petitioner was appointed purely on adhoc basis against the post of PGT, Chemistry upto 31.03.1991, but she had worked upto 27.04.1992 by virtue of a stay order dated 20.03.1991 granted by the Jurisdictional High Court in CWP No.4337 of 1991 and thereafter she had resigned from service. On resignation an employee forfeits her previous service and is not entitled to any benefit of the same and as such the applicant was not entitled to any benefit as claimed by her in the OA. It has also been stated that the experience certificate sought by the petitioner had already been sent to her by respondent no.3 vide letter dated 26.04.1995 (Annexure R-4).

5. Arguments advanced by the learned counsel for the parties were heard. Learned counsel for the applicant reiterated the content of the petition.

6. Learned counsel for the respondents stated that the initial appointment of the applicant was on adhoc basis upto 31.03.1991 and she continued to work at the KVS Bathinda Cantt due to the interim order issued on 20.03.1991. He stated that an interim order could not confer any right on the petitioner. Her total service inclusive of leave period was only

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14 months. Learned counsel also drew attention to the content of Rule 137 of the Accounts Code which made it clear that persons employed in temporary vacancies on adhoc basis upto the beginning of long vacations are not entitled to any vacation pay. The applicant had also not completed five months continuous service prior to the vacation and hence was ineligible to draw vacation pay which could not have been drawn in advance. Learned counsel stated that against the application filed by the applicant for Maternity Leave she was allowed Extraordinary Leave. Petitioner did not agitate against this decision of August, 1991, till she filed CWP No.4258 of 1995 in March, 1995 and her claim for payment of salary for the period from 03.09.1991 to 01.12.1991 was a belated one.

7. We have carefully considered the pleadings of the parties and material on record and the arguments advanced by the learned counsel. It is clear from the material on record that the petitioner was issued offer of appointment through Memorandum dated 02.02.1991 against Leave vacancy / vacant post which was upto 31.03.1991. There is nothing to show that this appointment was to continue beyond 31.03.1991 and perhaps apprehending her discontinuation from service after this date, the petitioner filed a petition before the Jurisdictional High Court and interim order was issued on 20.03.1991 allowing her to continue against the post of PGT. This has not been denied by the applicant in the rejoinder filed on her behalf. Hence, the petitioner who was benefiting by the interim order

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can scarcely be allowed to take advantage of her enforced continuation to seek salary for the vacation period w.e.f. 05.05.1991 to 23.06.1991.

8. So far as the issue of salary for Maternity Leave period is concerned, it is evident that the applicant had applied for this leave through application dated 29.08.1991, but EOL was sanctioned stating that Maternity Leave is not authorized. Reason for doing so has not been clarified in the written statement or in the course of arguments. The respondents have not referred to any provision in the Rules denying the release of salary for the period when an employee of the KVS is away on account of Maternity Leave and whether the same was sanctioned or not is immaterial to the matter. Since the petitioner availed this period of leave and rejoined service after delivering a child and served in the KVS till she resigned in April, 1992, she would appear to be entitled to the benefit of salary for the period of Maternity Leave. Hence, the respondents are directed to release the amount of salary due to the applicant for the period from 03.09.1991 to 01.12.1991.

9. OA is disposed of accordingly. No costs.

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(RAJWANT SANDHU)  
ADMINISTRATIVE MEMBER.

*B. A. Agrawal*  
(DR. BRAHM A. AGRAWAL)  
JUDICIAL MEMBER

Place: Chandigarh  
Dated: 29.8.2014  
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