

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 3047/2017

Reserved on:16.01.2019
Pronounced on:17.01.2019

Hon'ble Ms. Praveen Mahajan, Member (A)

Mrs. Sunita Rani Chauhan
Age 50 years, Group 'B'
Wife of Shri Virender Singh Chauhan
Resident of 54-B
Samay Vihar Apartment
Sector-13, Rohini
New Delhi – 110 085
Working as
P.G.T. (Mathmatics)
Government Girls Senior Secondary School
AP Block, Shalimar Bagh
Delhi – 110 088.

... Applicant

(By Advocate:Shri Rajeev Sharma)

VERSUS

1. Government of National Capital Territory of Delhi
Through the Director of Education
Directorate of Education,
Old Secretariat
Delhi – 110 054.

2. The Deputy Director of Education
Department of Education
Shalimar Bagh
BL Block
Delhi – 110 088.

3. The Principal
Government Girls Senior Secondary School
AP Block Shalimar Bagh
Delhi – 110 088. .

...Respondents

(By Advocate: Shri Anil Singal)

ORDER

The applicant in the OA is working as PGT (Mathematics) in Government Girls Senior Secondary School, AP Block, Shalimar Bagh, Delhi.

2. The applicant by way of an application dated 12.08.2016 sought Child Care Leave from 21.09.2016 to 06.05.2017 (about 228 days) on the ground that her two sons were studying in 10th and 11th and they needed her attention. This application was rejected by the respondents on 22.08.2016 on the ground that there is only one sanctioned post of PGT (Mathematics) in the School which cannot be kept unmanned for such a long time. However, the applicant was granted Child Care Leave (CCL) w.e.f.21.09.2016 to 05.10.2016 (15 days). It was also mentioned that she has already availed Child Care Leave of 32 days earlier.

2.1 On 09.09.2016, the applicant again requested the respondents to reconsider her request, which was again turned down on 20.09.2016. The applicant was again informed that her Child Care Leave is restricted to 25 days from 21.09.2016 to 15.10.2016.

3. Due to emergent and pressing circumstances, the applicant proceeded on CCL w.e.f. 26.03.2017. The respondents thereafter issued an Order dated 14.06.2017 directing her to join her duty

immediately failing with disciplinary action is contemplated against her as per CCS(CCA) Rules 1965.

The applicant has since rejoined her duties on 19.06.2017.

4. Being aggrieved by action of the respondents she has filed the present OA – seeking the following relief :-

“It is therefore most respectfully prayed that Your Lordships may graciously be pleased to allow the Original Application and set aside the order No.F.GGSSS/AP/SB/SEPT.2016/782/868 dated 14.06.2017 issued by Deputy Director of Education and allow the applicant to take Child Care Leave as per law and/or pass any other or further order as Yours Lordships may deem fit in the interest of justice.”

5. During the course of hearing, the learned counsel for the applicant Shri Rajeev Sharma reiterated the issues already raised in the OA. He drew my attention to Office Memorandum dated 29.05.2013 issued by Government of National Capital Territory of Delhi showing the authority empowered for issuing Child Care Leave in respect of Gazetted/Non Gazetted/dealing staff and argued that the leave of the applicant has not been considered and processed by the competent authority – hence the rejection order is bad in law.

6. Per contra, the learned counsel for the respondents Shri Anil Singal relied upon OM dated 18th November, 2008 of Ministry of Personnel, Public Grievances & Pensions (Department of Personnel and Training) wherein it has been held that :-

“2. Consequent upon the implementation of orders relating to Child Care Leave, references has been received from

various sections regarding the procedure for grant of this leave etc. In this connection, it is mentioned that the intention of the Pay Commission in recommending Child Care Leave for women employees was to facilitate women employees to take care of their children at the time of need. However, this does not mean that CCL should disrupt the functioning of Central Government offices. The nature of this leave was envisaged to be the same as that of earned leave. Accordingly, while maintaining the spirit of Pay Commission's recommendations intact and also harmonizing the smooth functioning of the offices, the following clarifications are issued in consultation with the Department of Expenditure (Implementation Cell) with regard to Child Care Leave for Central Government employees :-

- (i) CCL cannot be demanded as a matter of right. Under no circumstances can any employee proceed on CCL without prior proper approval of the leave by the leave sanctioning authority.
- (ii) The leave is to be treated like the Earned Leave and sanctioned as such.
- (iii) Consequently, Saturdays, Sundays, Gazetted holidays etc. falling during the period of leave would also count for CCL, as in the case of Earned Leave.
- (iv) CCL can be availed only if the employee concerned has no Earned Leave at her credit."

7. I have gone through the facts of the case and I find little merit in the case of the applicant. The respondents while considering and rejecting the applications of the applicant for grant of Child Care Leave (CCL), have explained the reasons as to why prolonged leave of almost 228 days could not be granted to her. It is also a fact that CCL cannot be demanded as a matter of right and it was incumbent upon the applicant a Govt. Servant to get her leave sanctioned before proceeding on CCL.

8. The OM dated 29.05.2013 referred to by the applicant, in my view, would not be attracted since the application was addressed to Head of the School, who is empowered to sanction leave upto 60 days. In the instant case, the CCL sanctioned by the respondents (HOS) is less than 60 days –which is within the power of the Principal. Despite the fact that only 15 days leave was sanctioned to the applicant w.e.f. 22.08.2016 she chose not to report for duty till 14.06.2017.

8.1 Even as per clarification issued by DOP&T on 31.07.2014, on Child Care Leave – it has been held that :-

“It is stated the condition of restricting the number of spells for which CCL can be allowed to a female Government servant during a year provides check & balance to ensure that demands of public service are not sacrificed or compromised with and that there is no dislocation of work, thus there is no proposal to review the said condition for its deletion.”

9. In view of these facts, no intervention of the Tribunal is merited in the impugned orders issued by the respondents. The OA lacks merit and, is accordingly, dismissed. No costs.

(Praveen Mahajan)
Member (A)

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