

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 859 of 2007 (O&M)
Date of Decision: 31.1.2009.

Dalbir Kaur

---Petitioner

Vs.

State of Punjab and others

---Respondents

CORAM:- HON'BLE MR.JUSTICE PERMOD KOHLI.

Present:- Mr. R.S. Manhas, Advocate for the petitioner.

Mr. B.S. Chahal, D.A.G., Punjab.

PERMOD KOHLI.J (ORAL)

While serving as time clerk at Ranjit Sagar Dam, Shahpur Kandi, petitioner was transferred to Water Drainage Division at Gurdaspur vide order dated 3.5.2002. Petitioner made an application for cancellation of the order on the ground that her two children are studying at Shahpur Kandi. Since, no action was taken, the petitioner allegedly approached the Water Drainage Division at Gurdaspur for joining, however, she was not permitted to join on the ground that no vacant post of time clerk is available in the said office as is evident from the letter dated 18.7.2002 from the Superintending Engineer, Amritsar Water Nikas Circle, Amritsar to the Chief Engineer, Irrigation Deptt. Punjab (Annexure P-2).

The petitioner thereafter filed a writ petition before this Court being CWP No. 13195 of 2002 (Annexure P-3), which came to be disposed of with the direction to the respondents to pass the appropriate order on the

representation of the petitioner. Consequently, the respondents posted the petitioner in the office of respondent no.3, where the petitioner joined on 16.1.2003.

The grievance of the petitioner is that neither she has been paid salary for the period from 9.5.2002 to 15.1.2003 nor any increment has been granted thereafter.

The stand of the respondents is that due to non-availability of required post at Gurdaspur, the petitioner was advised to re-join at her previous place of posting but instead of joining she filed writ petition. However, there is no order on record to indicate that the petitioner was asked to re-join on the original place of posting at Shahpur Kandi. It is stated that the petitioner thus remained absent from duty w.e.f. 9.5.2002 to 18.7.2002 and from 5.12.2002 to 15.1.2003.

Admittedly, neither any disciplinary action has been initiated against the petitioner for the alleged absence nor the representation has been decided. In any case the respondents cannot withhold the increments of the petitioner atleast from the date of joining in the office of respondent no.3. Otherwise also, it was obligatory upon the respondents to have considered and decide the period petitioner either did not join or she was prevented from joining, but nothing has been done so far.

This petition is disposed of with the direction to the respondents to release the increments of the petitioner w.e.f the date of her transfer till her joining on 16.1.2003. For the period of alleged non-joining/absence. The respondents may take a decision in accordance with the rules after affording an opportunity of being heard to the petitioner

within a period of three months from the date certified copy of this order is served upon the competent authority.

Petition is disposed of as such.

(PERMOD KOHLI)
JUDGE

31.1.2009

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