

(2022-3)207 PLR 047
ELVEENA V. STATE OF PUNJAB
PUNJAB AND HARYANA HIGH COURT
Before: Mr. Justice Harsimran Singh Sethi.
ELVEENA – Petitioner,
Versus
STATE OF PUNJAB and others – Respondents.
CWP-28274-2017

Leave - A Grade Nursing Course - Petitioner was allowed to undertake higher studies with the clear stipulation that she will not be extended study leave for undergoing the Nursing Course in question but will be given leave of the kind due - It is not disputed that the leave of kind due as promised to the petitioner, was given - Once, at the time of availing a benefit, the petitioner agreed to the terms and conditions, the same cannot be challenged by the petitioner and that too after approximately 30 years of availing the said benefits. [Para 9]

Mr. Sunil Agnihotri, for the petitioner. Mr. Navdeep Chhabra, DAG, Punjab.

Harsimran Singh Sethi J. (Oral) - (14th March, 2022) - Present petition has been filed for treating the period for which the petitioner had undergone to attend the "A Grade Nursing Course" in the year 1985 upto 1987 as a study leave period so as to grant her the benefit of pay and other allowances for the said period.

2. It may be noticed that in the present case, the petitioner joined the service in the year 1982 and retired on 31.01.2009 as a Staff Nurse while working in Civil Hospital, Dasuya, District Hoshiarpur. From 20.09.1985 to 19.06.1987, the petitioner had taken leave of the kind due for undergoing 'A Grade Nursing Course'. At the said time, the permission was given to the petitioner with clear stipulation that she will not be granted study leave but will only be extended the leave of the kind due in case she intends to undergo the said course. Being satisfied, the leave of kind due in the kitty of the petitioner was extended to her and the petitioner underwent the said course and rejoined the duties in the year 1987 and discharged her duties as a Nurse with the Government Institution till the date she attained the age of superannuation in the year 2009. While in service, after undergoing the Nursing course in question, the petitioner never demanded any benefit as being claimed in the present petition.

3. After approximately eight years of the retirement, the present petition has been filed in the year 2017 with a prayer that period which the petitioner had spent while undergoing "A Grade Nursing Course" from 20.09.1985 till 19.06.1987 be treated as a study leave period so as to grant her the benefit of pay and other allowances for the said period.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. First of all, the question which arises in the present petition is whether, after a period of 08 years of the retirement, the present petition wherein, certain grievance have been raised by the petitioner, should be entertained or not.

6. The grievance, which the petitioner has raised before this Court, arose in the year 1987 but she never complained. She worked with the Department till the year 2009 without raising this claim. Once the petitioner never raised this grievance for 22 years while in service, how can the said issue be raised and that too in 2017 i.e. after 8 years of her retirement.

7. At this belated stage, even if, for the sake of argument, the petitioner has a *prima facie* case but, the delay in agitating the same, will overrule the said *prima facie* case. Therefore, the petitioner is estopped from raising the said grievance at this belated stage.

8. Even otherwise, the claim of the petitioner is not sustainable on merits for the following reasons.

9. The petitioner was allowed to undertake higher studies with the clear stipulation that she will not be extended study leave for undergoing the Nursing Course in question but will be given leave of the kind due. It is not disputed that the leave of kind due as promised to the petitioner,

was given. Once, at the time of availing a benefit, the petitioner agreed to the terms and conditions, the same cannot be challenged by the petitioner and that too after approximately 30 years of availing the said benefit.

10. Nothing has been brought to the notice of this Court that in any manner, the action of the respondents in not extending the study leave to the petitioner and that too in the year 1985 was wrong in any manner. No ground is made out to grant the benefit to the petitioner as being prayed.

Accordingly, the present petition is dismissed.

R.M.S. – Petition dismissed.