

Before Hemant Gupta and Mohinder Pal, JJ.

DR. RANI DEVI,—Petitioner

versus

**CHAUDHARY DEVI LAL UNIVERSITY, SIRSA, THROUGH
ITS REGISTRAR AND ANOTHER,—Respondents**

C.W.P. No. 16108 of 2005

29th May, 2008

Constitution of India, 1950—Act.226—Circular dated 5th April, 1999 issued by Government of Haryana—Appointment to post of Lecturer—Petitioner having 36 weeks pregnancy at time of joining applying for maternity leave—Medical certificate declaring petitioner ‘temporarily unfit’—Department cancelling joining and accepting same with effect from date after availing maternity leave—Circular dated 5th April, 1999 provides that it is not necessary to declare a woman candidate as temporarily unfit if she is found to be pregnant during medical examination before appointment against posts which do not prescribe any elaborate training—Petition allowed, University directed to treat petitioner as having joined services with effect from date of joining.

Held, that as per circular dated 5th April, 1999 issued by the Chief Secretary to Government, Haryana, on the subject of ‘Employment of women candidates in a state of pregnancy and declared as temporarily medically fit’, it is not necessary to declare a woman candidate as ‘Temporarily Unfit’ if she is found to be pregnant during medical examination before appointment against post which do not prescribe any elaborate training i.e. they can be appointed straightway on the job. Obviously, the appointment of the petitioner as Lecturer in the University did not require any elaborate training. Thus, in view of these clear-cut instructions of the Government of Haryana, the stand of the University that as the petitioner was declared ‘Temporarily Unfit’ because of pregnancy, her joining was cancelled with effect from 22nd July, 2004, is not tenable. Accordingly, without dilating the matter any

further, we hold that the petitioner is entitled to the claim made in this petition.

(Para 4)

Mrs. Renu Bala Sharma, Advocate *for the petitioner.*

None for the respondents.

MOHINDER PAL, J.

(1) In response to the advertisement issued by the Chaudhary Devi Lal University, Sirsa (hereinafter referred to as 'the University'), the petitioner Dr. Rani Devi applied for the post of Lecturer in the Department of Energy and Environmental Sciences. She was selected for the said post and issued appointment letter dated 22nd July, 2004 (Annexure P-1). The petitioner submitted her joining report (Annexure P-2) to the Registrar of the University on 22nd July, 2004. The petitioner appeared before the Civil Surgeon, Sirsa, for medical examination and,—*vide* Medical Certificate dated 28th July, 2004, she was declared to be having pregnancy of 36 weeks. She worked for a week in the University after her appointment and applied for grant of casual leave from 29th July, 2004 to 28th August, 2004,—*vide* application Annexure P-3. Thereafter, the petitioner applied for maternity leave from 29th July, 2004 to 17th October, 2004,—*vide* application dated 17th February, 2005 (Annexure P-5). In response to this application, the University informed the petitioner,—*vide* letter dated 5th April, 2005 (Annexure P-6) that her joining as Lecturer could be accepted only from 18th October, 2004, when she joined the University after availing maternity leave.

(2) The claim of the petitioner is that since she had joined the University on 22nd July, 2004 and thereafter she proceeded on maternity leave 29th July, 2004 till 17th October, 2004, she should have been treated to join the University on 22nd July, 2004 and not 18th October, 2004 as declared by the University in its letter dated 5th April, 2005 (Annexure P-6).

(3) In the written statement filed on behalf of the University, it has been stated that since the petitioner was declared 'Temporarily

Unfit' because of pregnancy,—*vide* Medical Certificate dated 28th July, 2004, her joining was cancelled with effect from 22nd July, 2004 as per the condition of the appointment letter which provided that the petitioner was required to submit a Certificate of medical fitness within a week of joining of service from the Chief Medical Officer, Sirsa regarding her fitness. However, as she was 'Temporarily Unfit' to join duty due to pregnancy, a lenient view was taken in her favour and maternity leave was granted to her. She joined duties on 18th October, 2004, after availing the maternity report and, as such, her joining was rightly accepted with effect from 18th October, 2004.

(4) Learned counsel for the petitioner has referred to Circular No. 43/14/98-1 GS1, dated 5th April, 1999 issued by the Chief Secretary to Government, Haryana, on the subject of 'Employment of women candidates in a state of pregnancy and declared as temporarily medically fit'. As per this Circular, it is not necessary to declare a woman candidate as 'Temporarily Unfit' if she is found to be pregnant during medical examination before appointment against posts which do not prescribe any elaborate training i.e. they can be appointed straightway on the job. Obviously, the appointment of the petitioner as Lecturer in the University did not require any elaborate training. Thus, in view of these clear-cut instructions of the Government of Haryana, the stand of the University that as the petitioner was declared 'Temporarily Unfit' because of pregnancy, her joining was cancelled with effect from 22nd July, 2004, is not tenable. Accordingly, without dilating the matter any further, we hold that the petitioner is entitled to the claim made in this petition.

(5) Consequently, this writ petition is allowed and the University is directed to treat the petitioner as having joined the services of the University as Lecturer with effect from 22nd July, 2004 instead of 18th October, 2004, with all consequential benefits. There shall be no order as to costs.

R.N.R.