

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Writ Petition No.17520 of 2010
Date of Decision: May 21, 2015

Jit Kumar

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Virender Kumar, Advocate,
for the petitioner.

Mr.Keshav Gupta, AAG, Haryana,
for the State.

AMIT RAWAL, J. (Oral)

The challenge in the present writ petition is to the orders dated 12.3.2010 (Annexure P-8), 2.4.2010 (Annexure P-12) and 19.5.2010 (Annexure P-17), whereby the period of absence from duty has been treated as leave without pay as per the rule of 'no work no pay'.

The petitioner is stated to have remained absent from 9.2.2010 to 11.2.2010, 22.2.2010 to 26.2.2010, 15.3.2010 to 19.3.2010 and 5.4.2010 to onwards. Accordingly, the show cause notices were served upon the petitioner to give explanation. The petitioner is stated to have submitted reply to all the show cause notices and finding no justification, much less, any substance, the authorities have treated the period as leave without pay

by invoking the provisions of Rule 8.23 of the Punjab Civil Services Rules, Vol.1, Part 1 (as applicable to the State of Haryana).

Mr.Virender Kumar, learned counsel appearing for the petitioner submits that owing to the impugned orders, the period of absence from duty shall amount to break in service and it would effect the career of the petitioner. He further submits that the impugned order has been passed by the Deputy Superintendent of Police, who was officiating the office of Superintendent of Police and, therefore, the impugned orders are not sustainable in the eyes of law.

Mr.Keshav Gupta, learned Assistant Advocate General, Haryana appearing on behalf of the State submits that the period of absence has been treated strictly with the provisions of rules, *ibid*, and it has been categorically mentioned in sub-para (iv) of para 8 of the written statement that the period of absence from duty should not be treated as break in service, so the apprehension of the petitioner qua the same is wholly misplaced.

I have heard the learned counsel for the parties and appraised the paper book.

The impugned orders treating the period of absence as leave without pay have been passed, as a consequential orders after issuing show cause notices by finding the reply of the petitioner not satisfactory. Rule 8.4 of the Rules clearly lays down that the person has to submit an application for going on leave and on sanction of the leave, the person cannot be treated to have remained absent from duty.

In the instant case, the petitioner did not submit any application

for leave, much less, question of granting the sanction did not arise, therefore, the authorities have rightly invoked the provisions of aforementioned rules by treating the leave as without pay on the principle of 'no work no pay'. Since in the written statement, the respondents have stated that the period of absence shall not be treated as break in service, the apprehension of the petitioner in this regard is wholly ill-fated. The impugned orders are fair, legal and justified and have been passed strictly in accordance with law.

There is no merit in the writ petition. Accordingly, the same is dismissed.

May 21, 2015
ramesh

(AMIT RAWAL)
JUDGE