

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4628 of 2015

Dr. Mohan Lal Shende S/o S. R. Shende, Aged About 42 Years Veterinary Surgeon, O/o Pashu Jaanch Chowki, Mata Mahamari Project, Kota, Bilaspur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through: The Secretary, Veterinary Medical Services Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, (Chhattisgarh)
2. Director, Directorate Of Veterinary Medical Services, Indrawati Bhawan, Block III, Ground Floor, Naya Raipur, District Raipur, (Chhattisgarh)
3. Assistant Surgeon, Mata Mahamari Project, Tilak Nagar, Bilaspur, District Bilaspur, (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Anup Majumdar, Advocate
For State	:	Shri Dhiraj Wankhede, Govt. Advocate

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

22/08/2016

Heard on admission.

1. The only point arising for consideration is whether the respondents are justified in refusing to grant study leave to the petitioner.
2. According to the State counsel, Chhattisgarh Civil Services (Leave) Rules, 2010 (in short "*the Leave Rules*") provide that a person should have served under Govt. service for at least 5 years. As the period of service rendered by the petitioner on the present post is less than 5 years, the State has not granted him study leave.

3. The relevant Rule 42 (5) of the Leave Rules requires that study leave can be granted to a regular Govt. servant who has satisfactorily completed the period of probation and rendered not less than 5 years of continuous service including the period of probation and service in ad hoc capacity under the Govt. The other two conditions are that he should not be due to reach the age of superannuation within 3 years and that he should execute a bond. The Leave Rules, on its face, do not require that in order to avail study leave, the period of services rendered should be counted from the date the Govt. servant has occupied the present post. The requirement of the Leave Rules is that his services should not be less than 5 years in Govt. service. Therefore, where the total period of service in the Govt. service is more than 5 years, a person would be entitled for consideration for grant of study leave and the application cannot be rejected on the ground that he has not completed 5 years of service.
4. In view of the above, this petition is finally disposed off with a direction to the respondents to re-examine the petitioner's application for grant of study leave on other relevant considerations available to them under the law. The decision shall be taken within a period of 8 weeks from the date of receipt of copy of this order.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge