

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

CWP No.10370 of 2013 (O&M)

Date of decision: 08.02.2016

Dr. Amar Singh Malhotra and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ranjit Saini, Advocate,
for the petitioners.

Mr. Hitesh Pandit, Addl. A.G., Haryana.,
for respondent Nos. 1 and 2.

Ms. Manjari Nehru Kaul, Advocate,
for respondent No.4.

Mr. Hemant Bassi, Advocate,
for respondent Nos.6 and 14.

Mr. V.D. Sharma, Advocate,
for respondent No.12.

Ritu Bahri, J.

The petitioners are seeking a writ of certiorari for setting aside the order dated 24.04.2013 (Annexure P-6), whereby benefit of leave encashment has been declined.

The petitioners were working in privately managed affiliated colleges. Their services were governed by the Haryana Affiliated College (Security of Service) Act, 1979 and the Rules framed thereunder. The services of employees of Non-Government recognized colleges are governed by Rules of Service and Conduct for Employees in Non-Government Recognized Colleges. Rule 6 (c) of above Rules deals with gratuity, which is reproduced as under:-

“5 (c) : All confirmed employees shall be entitled to the benefit of Gratuity as per Haryana Government Rules.”

As per above Rules, gratuity of the petitioners is to be granted at par with the Haryana Government employees. Thereafter, the petitioners served a legal notice dated 13.03.2013 (Annexure P-5) upon the respondents claiming the benefit of leave encashment. Vide order dated 24.04.2013 (Annexure P-6), respondent No.2 has declined to grant relief to the petitioners.

A perusal of the impugned order (Annexure P-6) shows that SLP filed by the State of Haryana against the orders passed by this Court in CWP No.3732 of 2007, titled as Karan Singh Rathee Vs. State of Haryana, was dismissed on the ground of delay. Hence, the said decision was not generalized and no revision in Rules with regard to leave encashment was made. The petitioners were not party to the aforesaid writ petition. Therefore, no benefit of leave encashment could be granted to them.

A Co-ordinate Bench of this Court in Amrik Singh and others Vs. State of Haryana and others, CWP No.1394 of 2013 (decided on 28.09.2015), has given liberty to the petitioners to avail their alternative remedy before the Education Tribunal, which has been constituted by the State of Haryana.

In view of the said order, this petition is disposed of by relegating the petitioners to avail their alternative remedy before the Education Tribunal. Since the matter has been pending for quite sometime, it is expected that the Tribunal would make an endeavour to decide the case at any early date.

08.02.2016

(RITU BAHRI)
JUDGE