

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

CWP No.12981 of 2017 (O&M)

Date of decision : June 02, 2017

Raj Kumar Gupta

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sunny Singla, Advocate for the petitioner.

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

KULDIP SINGH J. (ORAL)

Petitioner retired as Head Master from service on 30.04.2015. It comes out that he was granted 245 days of leave encashment in total. Petitioner claims leave encashment for additional 21 days. Previously, he had filed CWP No.21914 of 2016, which was disposed of vide order dated 21.10.2016 (Annexure P-3) with direction to the respondents to decide the legal notice by passing a speaking order. Consequently, speaking order dated 27.02.2017 (Annexure P-4) has been passed, in which while noticing that leave encashment of 245 days has already been granted, leave encashment for additional 21 days has been denied by giving the following reasons:

“-- As per provision contained in rule 8.117(a) of Punjab Civil Services Rules, Volume I, Part I, the employees of Vacation Department are not entitled to any earned leave in respect of duty performed in any year in which the staff avails itself of full vacation of the recommendations. As per provision contained in rule 8.117(b) of Punjab Civil Services Rules, Volume I, Part

I, if any employee of Vacation Department avails himself of a part of vacation the earned leave proportionately admissible to him under rule 8.117(b) together with eight days. Additional earned leave will not exceed the maximum earned leave admissible under rule 8.117(b). The benefit will accrue to the staff from the calendar year, 1990 i.e. from the 1st January, 1990. Even the petitioner has been granted the benefit of leaves for working in vacations on proportionate basis in light of Letter no.10/36/89-4 FPI/20133 dated 08.03.1990 issued by the department of Finance. Through his legal notice dated 08.08.2016, the petitioner has claimed the benefit of leave encashment for thirty days without deducting the eight days leave as admissible to him in the light of instructions dated 1990. During year 2007, the petitioner was entitled for the benefit of 12 days earned leave in lieu of days spent on duty during vacations but he is claiming benefit for thirty days whereas he is entitled to 12 days (on proportionate basis)+ 8(as admissible to him generally) = Total 20 days. The petitioner is also claiming 2 days earned leave benefit for performing election duty on 19.09.2004 and 20.10.2004 (SUNDAY) but there is no provision under rules to grant such benefit to any employee who worked on Sundays. Moreover, in this regard, there is no instruction issued by the concerned authority. During year 2010, the petitioner was entitled for the benefit of 12 days earned leave in lieu of days spent on duty during vacations but his claiming benefit for thirty days whereas he is entitled to 13 days (on proportionate basis)+8 (as admissible to him generally) = Total 21 days. Total difference of earned leave calculated by the petitioner and calculation of department in years of 2004, 2007 and 2010 is 21 days. Moreover, the petitioner has also been paid for

attending seminars, Census duty as well as for Election duty as per norms by the government. After having examined all aspects of the matter, I have come to an irresistible conclusion that the petitioner has already got the benefit of leave encashment as per his entitlement according to govt. rules/instructions. He is not entitled to get the benefit of leave encashment for 21 more days as claimed by him in legal notice dated 08.08.2016. Therefore, the abovesaid claim of the petitioner is hereby rejected.”

After going through the reasoning given in the impugned order, I am of the view that there is no reason to interfere in the reasoning given by respondent No.2.

As such, the present petition is dismissed.

(KULDIP SINGH)
JUDGE

June 02, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: No