

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 1136 of 2010

B.L.Kesharwani S/o Late Shri L.P.Kesharwani, aged about 73 years,
Retired Professor (Zoology), From C.M.D.College, Bilaspur, Nirala
Nagar, Bilaspur (C.G.).

---Petitioner

Versus

1. State of Chhattisgarh through the Secretary, Department of Higher Education, Mantralaya, D.K.S. Bhawan, District Raipur (C.G.).
2. The Commissioner, Department of Higher Education, Chhattisgarh, H.Q. Science College Campus, Raipur (C.G.).
3. Governing Body/Managing Committee, C.M.C. Committee, Bilaspur (C.G.).
4. The Principal, C.M.D.College, Bilaspur (C.G.).

---Respondents

For petitioner	:	Shri Rajesh Kumar Kesharwani, Advocate.
For State	:	Shri B.Gopa Kumar, Dy.A.G.

Hon'ble Shri Justice P. Sam KoshyOrder on Board21/03/2018

1. The limited grievance which the petitioner has raised in the present Writ Petition is that after his retirement with effect from 28/02/1998, he was paid the benefit of leave encashment of only 79 days whereas he was entitled for 175 days.
2. The counsel for the petitioner submits that, he had sufficient leave in his credit which was encashable which the respondents have not properly considered. He further submits that, this is the second round of litigation. In an earlier round of litigation also, the matter was disposed off on 03/07/2008

in WPS No.2344/2008 and the order Annexure-P/5 dated 29/01/2009 has been passed subsequent to the earlier Writ Petition disposed off. He further submits that the college where the petitioner was discharging his duties at the time of retirement has also forwarded a letter on 04/05/2010 showing that the petitioner infact was entitled for 175 days of leave encashment.

3. Given the aforesaid factual matrix of the case, the only dispute which seems to be is whether the petitioner on the date of retirement had 175 days of leave encashable in his credit?

4. This aspect is one which could be verified only by the authorities concerned and it cannot be looked into by this Court in exercise of its writ jurisdiction.

5. Given the aforesaid facts and circumstances though after the disposal of an earlier round of litigation the respondents have granted the petitioner 79 days of leave encashment, but how the respondents have reached to the conclusion that he was entitled for only 79 days is not reflected, neither is there any details in respect of leave in his credit discussed in the said order.

6. Thus, this Court is of the opinion that let the respondent No.2 in consultation with the respondent No.4 verify the leave account of the petitioner as it stood on 28/02/1998 and pass an speaking order in respect of the entitlement of leave encashment to the petitioner as to whether he would be entitled for 175 days of leave encashment or only 79 days as has been granted to the petitioner. The respondents shall also keep in view the recommendation made by the respondent No.4 on 04/05/2000 in this regard.

Let this exercise be done within a period of 4 months from the date the certified copy of this order is made available to the respondents.

7. The Writ Petition accordingly stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit