

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

**CWP-5921-2016 (O&M)
Date of decision : 13.05.2019**

Amarjit Singh

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Madhav Pokhrel, Advocate,
for the petitioner.

Ms. Kanica Sachdeva, AAG, Punjab.

JITENDRA CHAUHAN, J.

Prayer in the instant petition is for quashing of memo dated 05.11.2015 (Annexure P-10) issued by respondent No.2, whereby, the claim of the petitioner for considering the period between 14.09.2005 to 26.12.2005, as duty period, has been rejected and further for issuance of a direction to treat the aforesaid period as duty period instead of half-pay leave.

It is submitted that the petitioner had been working as a Social Studies Master with the respondent-Department. He retired from service on 31.05.2013. In the year 2004, while he was posted at Government Senior Secondary School, Sehna, District Sangrur, the petitioner was transferred to Government High School, Mohar Singh Wala, District Mansa vide order

dated 05.11.2004 (Annexure P-1). In compliance thereto, he joined the new place of posting on 16.12.2004 (Annexure P-2). The petitioner was again transferred back to Government Senior Secondary School, Sehna, District Sangrur, against a vacant post vide order dated 25.08.2005 (Annexure P-3). The petitioner was relieved from Government High School, Mohar Singh Wala, District Mansa on 12.09.2005 (Annexure P-4). On the same day, the petitioner joined Government Senior Secondary School, Sehna, District Sangrur (Annexure P-5). However, on the very next day, i.e. on 13.09.2005, the Principal of Government Senior Secondary School, Sehna, District Sangrur, while referring to the cancellation of transfer order of the petitioner dated 25.08.2005 vide endorsement order dated 13.09.2005, relieved the petitioner from duty. Thereafter, there was no order by the competent authority as to where the petitioner was required to join his duties. Subsequently, vide order dated 12.12.2005 (Annexure P-7), issued by the Director Public Instruction (Secondary Education), Punjab, directions were issued to District Education Officer (Secondary Education) Sangrur, to implement the earlier transfer order dated 25.08.2005 (Annexure P-3), whereby, the petitioner was transferred from Government High School, Mohar Singh Wala to Government Senior Secondary School, Sehna, District Sangrur. Thus, the petitioner was allowed to join the duties by the Principal Government Senior Secondary School, Sehna, District Sangrur, on 27.12.2005 (Annexure P-8). The grouse of the petitioner is that the Principal, Government Senior Secondary School, Sehna, District Sangrur, treated the period from 14.09.2005 to 26.05.2005 as half pay leave. It is

submitted that the petitioner was not allowed to work for the said period and no fault therefor, can be attributed to him.

On the other hand, learned State counsel submits that the petitioner was transferred on administrative grounds vide order dated 05.11.2004 from Government Senior Secondary School, Sehna, District Sangrur, to Government High School, Mohar Singh Wala, District Mansa. The petitioner by concealing this fact from the department, applied in general transfers and got transfer order dated 25.08.2005 (Annexure P-3), whereby, he was transferred back to Government Senior Secondary School, Sehna, District Sangrur. When this fact came to the knowledge of the competent authority, the order of transfer was immediately cancelled vide order dated 13.09.2005. and the Principal, Government Senior Secondary School, Sehna, District Sangrur, relieved the petitioner vide letter dated 13.09.2005 (Annexure P-6), wherein, the DEO/Principal specifically ordered the petitioner to join his duties at Government High School, Mohar Singh Wala, District Mansa. The District Education Officer (Secondary Education), Sangrur, remitted back the transfer order dated 25.08.2005 to Director, Public Instructions (Secondary Education), Punjab for further orders and the latter issued orders dated 12.12.2005 to implement the endorsed order. Ultimately, the petitioner was allowed to join in Government Senior Secondary School, Sehna, District Sangrur on 27.12.2005. Thus, the petitioner wilfully remained absent from duty w.e.f. 14.09.2005 to 26.12.2005 and to cover up his absence, he himself had applied for grant of half-pay leave.

Heard.

As per record, the petitioner was relieved from Government High School, Mohar Singh Wala, District Mansa on 12.09.2005 (Annexure P-4) and he joined the new place of posting on the same day. However, on the very next day, i.e. on 13.09.2005, the Principal of Government Senior Secondary School, Sehna, District Sangrur, while referring to the cancellation of transfer order of the petitioner dated 25.08.2005 vide endorsement order dated 13.09.2005, relieved the petitioner from duty. From 14.09.2005 to 26.12.2005, the petitioner was not allowed to join any of the schools. Subsequently, vide order dated 12.12.2005 (Annexure P-7), issued by the Director Public Instruction (Secondary Education), Punjab, directions were issued to District Education Officer (Secondary Education) Sangrur, to implement the earlier transfer order dated 25.08.2005 (Annexure P-3), whereby, the petitioner was transferred from Government High School, Mohar Singh Wala to Government Senior Secondary School, Sehna, District Sangrur. Only thereafter, he was allowed to join the duties by the Principal Government Senior Secondary School, Sehna, District Sangrur, on 27.12.2005 (Annexure P-8). Thus, the petitioner cannot be attributed any fault as there were no clear-cut instructions for the petitioner as to which school he was supposed to join post 13.05.2019. There is also no document on record that the period in question was treated as half-pay leave on the request made by the petitioner himself.

In this view of the matter, the instant petition is allowed; impugned memo dated 05.11.2015 (Annexure P-10) is set aside; and the

respondents are directed to treat the period from 14.09.2005 to 26.12.2005 as duty period. The consequential benefits be also passed on to the petitioner. The necessary exercise be completed within three months from the date of receipt of a certified copy of this judgment.

Allowed.

13.05.2019

atulsethi

**(JITENDRA CHAUHAN)
JUDGE**

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No