

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

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CM No.11570-CWP of 2017 in/and
Civil Writ Petition No.3413 of 2007

Date of Decision: February 14th, 2020

Mohinder Kumar

...Petitioner

Versus

The State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. R.K. Arora, Advocate
for the applicant-petitioner.

Ms. Devaki Anand Sullar, Assistant Advocate General, Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-11570-CWP-2017

At the joint request of the counsel for the parties, the main writ petition is taken on board for disposal.

The application is allowed accordingly.

CWP-3413-2017

Petitioner has approached this Court challenging the order dated 08.06.2006 (Annexure P-16), whereby the claim of the petitioner for extension of study leave, which was restricted to for the period 20.10.1991 to 28.10.1993 for two years and extended up to 09.05.1995 as the period between 29.10.1993 to 29.11.1993 has been treated as earned leave and 30.11.1993 to 09.05.1995 as extraordinary leave.

2. Counsel for the petitioner contends that the petitioner has been discriminated against as similarly placed employee i.e. Balbir Singh, who was also pursuing higher studies as the petitioner in the Department of Agriculture and whose application for grant of study leave was processed

along with the petitioner, was granted the benefit of the said period of leave i.e. 27.02.1991 to 03.05.1992 as study leave by extending the same vide order dated 14.01.2004 (Annexure P-13). Again a reference has been made to the case of another employee namely Shri Mangal Singh Sandhu, Soil Conservation Officer as he then was, whereby the earlier granted study leave for a short period of time was extended for the entire period of his study i.e. 25.02.1989 to 24.08.1992 vide order dated 18.12.2012 (Annexure A-1). He on this basis contends that the rejection of the claim of the petitioner for grant of extended study leave vide the impugned order dated 08.06.2006 (Annexure P-16) is unsustainable firstly on the ground that the same is a non-speaking order and secondly the claim of the petitioner has, without any justification, been rejected when similarly placed employees have been granted the said benefit. He, therefore, contends that the petitioner be granted the benefit as has been claimed by the petitioner by setting aside the impugned order dated 08.06.2006 (Annexure P-16).

3. On the other hand, learned counsel for the State submits that the petitioner has not been in any manner discriminated against. He had pursued his higher studies at his own will and his name was only recommended by the department as per his application. It is contended that as per Study Leave Rules, 1963, the conditions for grant of study leave have not been fulfilled by the petitioner and, therefore, the competent authority has rightly rejected the said claim. She contends that the admissible leave has already been granted to him for a period of two years, which cannot be faulted with and, therefore, the impugned order has rightly been passed.

She, however, could not distinguish the case of the petitioner from the other

two similarly placed employees namely Shir Balbir Singh and Shri Mangal Singh Sandhu, who have been given the said benefit as per order dated 14.01.2004 (Annexure P-13) and order dated 18.12.2012 (Annexure A-1) respectively.

4. I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the records of the case.

5. A perusal of the impugned order would show that the order dated 08.06.2006 (Annexure P-16), which declines the petitioner the extension of study leave is a single lined order, where no reason whatsoever has been assigned, that itself is a good ground for setting aside the same. Further, keeping in view the fact that similarly placed employees namely Shri Balbir Singh and Shri Mangal Singh Sandhu have been granted the similar benefit as is being claimed by the petitioner, the contention of the petitioner that he has been discriminated against stands established.

5. In view of the above, the present writ petition is allowed. Impugned order dated 08.06.2006 (Annexure P-16) is hereby quashed.

6. Direction is issued to the respondents to grant the extension of leave as prayed for by the petitioner.

7. The said order be passed within a period of six weeks. Consequential benefits, if any, be released to the petitioner within a further period of six weeks.

February 14th, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No