

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5414 of 2020**

M. Gopala Krishna Murty S/o Late Shri M. Naidu Aged About 68 Years R/o Street S.P.A. Block 5/E, Zone -03, Khursipara, Bhilai, District Durg Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Education Mantralaya, Mahanadi Bhawan Atal Nagar, New Raipur, District Raipur Chhattisgarh
2. Director Directorate Of Public Instruction, Chhattisgarh Raipur Indrawati Bhawan, Naya Raipur District Raipur Chhattisgarh
3. District Education Officer Durg, District Durg Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Ajay Shrivastava, Advocate
For State	:	Mr. Vikas Shrivastava, PL

Hon'ble Shri Justice P. Sam Koshy
Order on Board

21/01/2021

1. The instant petition has been filed seeking for a direction to the respondents to grant the benefits of leave encashment to the petitioner, who was working in the Non-government Private Aided Educational Institutions, and who has since retired, at par with the benefits of leave encashment paid to the government employees.
2. The counsel for the petitioner submits that an identical issue came up before this Court in WPS No. 5075/2014, which stood allowed and disposed off on 26.04.2018. This Court while disposing of the said writ petition has held as under:-

“14. Unless the circular dated 25/08/1986 is expressly

superseded by either the State of Madhya Pradesh or for that matter subsequently by the State of Chhattisgarh, the said circular will definitely have a force of law which would be enforceable.

15. *A plain reading of the contents of the circular would by itself reveal that, the contents of the circular is as emphatic as it can be. It has been in a very categorical terms decided that the Teachers and employees working in an aided institutions would be entitled for H.R.A., leave encashment and Ex-Gracia payment at par with their counter parts in the Government School.*
 16. *In the absence of any order, circular or law by either the State of Madhya Pradesh or by the State of Chhattisgarh, it is difficult to presume that the said circular is not in force as on date in the State of Chhattisgarh.*
 17. *In view of the same, this Court has no hesitation in holding that Annexure P/1 is to be bad in law and deserve to be and is accordingly set aside/quashed.*
 18. *The petitioner would be entitled for leave encashment as was applicable to the Government Teacher or employee in a Government School.*
 19. *It is directed that the respondent No.2 shall immediately process the case of the petitioner and provide him the benefit of leave encashment at par that of a Government Teacher."*
3. Counsel for the petitioner submits that since the petitioner's claim is also of identical nature; the same relief may also be granted to the petitioner as well.
 4. On perusal of the facts, the learned State counsel submits that factually the case of the petitioner is identically placed as that of the

petitioner in WPS No. 5075/2014.

5. Given the aforesaid facts and circumstances of the case, the present writ petition also stands allowed and disposed off with a direction to the respondent/State to consider and decide the claim of the petitioner as well for grant of leave encashment in the light of circular dated 25.08.1986, which envisages granting of similar benefits at par with the State Government employees.
6. The writ petitions stand allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Rohit