

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

109

CWP-19387-2020

Date of decision:25.02.2021

Sukh Ram

... Petitioner

Versus

The Additional Chief Secretary and Financial Commissioner and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.Dinesh Ghai, Advocate
for the petitioner

Mr.R.K.S.Brar, Additional Advocate General, Haryana

(The proceedings were conducted through video
conferencing, as per instructions.)

G .S. Sandhawalia , J. (Oral)

The petitioner seeks the benefit of cash salary equivalent to the salary of balance 167 days out of total of 467 days of unutilized earned leave outstanding to the credit of the petitioner and the arrears of salary in lieu of 7th Pay Commission dated 01.01.2016 and the arrears of DA instalment of July 2019 along with interest. Also quashing of order dated 01.06.2020 (Annexure P-1), whereby he has been granted salary of 300 days unutilized earned leave, whereas 467 days earned leave was actually outstanding on the date of his retirement on 29.02.2020 is prayed for.

The legal notice whereby the said claim of the balance 167 days

of unutilized earned leave was claimed, had been rejected vide order dated 08.10.2020 (Annexure P-3), which is also a subject matter of challenge in which the respondents have stated that the legal notice had been considered and rejected.

Learned counsel for the petitioner has vehemently relied upon two judgments passed by this Court in CWP-13702-2014, “Jaipal Phogat and another vs. State of Haryana and others”, (Annexure P-4) and CWP-25427-2013, “Kulbir Singh vs. State of Haryana and others” both decided on 05.10.2016, to submit that the leave beyond 300 days is also encashable as such.

On 16.11.2020, learned counsel for the petitioner was asked to show the regulation or notification he was relying upon for his claim beyond 300 days. Learned counsel for the petitioner is unable to produce any such regulation in respect of said claim, which would necessarily be the basis for issuance of a writ of mandamus. Neither he has referred to the Rules which would show that earned leave beyond 300 days is encashable. In such circumstances, the petition is not liable to be entertained.

A close reading of the judgments relied upon by learned counsel for the petitioner would also go to show that co-ordinate Bench was dealing with the cases where the employees had accumulated unutilized leave beyond 300 days and the same had been reduced and fixed for 240 days and

the said action was held to be unjustified and therefore the said judgments would be of no assistance to the present petition. Accordingly, there is no merit in the present case and the same is dismissed.

Learned counsel for the petitioner submits that the second prayer for claims of his arrears of salary in lieu of 7th Pay Commission was never put forth in the legal notice and therefore prays that the said prayer be left open to the petitioner by filing an appropriate representation. Accordingly, the liberty is granted to the petitioner to press that claim with the respondents.

25.02.2021*neenu***(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No