

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.21783 of 2022

Siba Prasad Panigrahi

....

Petitioner

Mr. S.P. Nath, Adv.

-versus-

*Vice Chancellor, VSS University,
Burla and Anr.*

....

Opposite Party

CORAM:

DR. JUSTICE S.K. PANIGRAHI

Order

No.

2.

ORDER

13.09.2022

1. This matter is taken up through hybrid mode.
2. The present petition has been filed challenging the letter dated 25.07.2022 issued by the Registrar, VSSUT, Burla. The petition calls into question the action of the Opposite Parties in disallowing the Petitioner for study leave to pursue his Post-Doctoral Research leading to D.Sc/ D.Litt Degree for a period of three years.
3. The Petitioner was appointed as Associate Professor in the department of Electrical Engineering on 06.10.2016 vide advertisement dated 01.12.2015 and his service was confirmed on 06.10.2017 after a probation period of one year.

4. The petitioner vide email dated 23.06.2022 requested the Head of Department (HoD), Electrical Engineering to allow him to go on study leave with full salary as per Statute 96 of the 1st Statutes of VSSUT. He also submitted a plan of study as required by Statute 97(1) of 1st Statutes of VSSUT enumerating the objective for such study leave and the plan of completion. The relevant section is extracted herein below:

“96. Study and Sabbatical Leave

(1) The Vice-Chancellor may grant study leave to an employee for a period not exceeding three years in one or more spells in his entire service to enable him to study Scientific, Technical or similar problems or to undergo a special course of instruction. Such leave is not debited against the leave account of the employee.

(2) The Professors and Readers of the University may be granted Sabbatical Leave in accordance with the guidelines of AICTE from time to time, provided that the total duration of Sabbatical Leave shall not exceed two years during their entire service career including the services rendered in this University, AICTE Guidelines for grant of Sabbatical Leave to Professors shall apply. (3) Before proceeding on Study Leave or Sabbatical Leave, the employee concerned shall be required to execute a bond with proper sureties that after the expiry of the leave he will return to the service of the University and serve thereafter at least for a period equal to the period of leave failing which he will refund to the University the leave salary and allowances and other expenses, if

any, spent on him/her paid to him/her or on his/her behalf together with interest thereon at the rate of eight per cent (8 %) per annum to be calculated from the date of such payment. The Bond to be executed would be in the form as prescribed by the University given in Appendix-X.

97. Application for Study Leave

(1) All applications for study leave shall be submitted through proper channel and the course or courses of study contemplated and any examination which the candidate proposes to undergo should be clearly specified therein."

5. Subsequently, the Petitioner approached the Registrar, VSSUT, Burla vide letter dated 12.07.2022 for allowing him to go on a study leave with full salary. However, the Registrar vide letter dated 25.07.2022 issued certain instructions to the Petitioner wherein it was stated that the Vice Chancellor has been pleased to disallow the petitioner for study leave to pursue LLB course as the same is not beneficial for the department of Electrical Engineering in particular and University, in general.
6. It is submitted by the learned counsel for the Petitioner that the Petitioner's decision to pursue LLB course aligns with his field of study as subjects like Professional Ethics, Professional Law and Moral Values have been inserted in the 5th Semester of B.Tech, Electrical Engineering pursuant to Act-4(1)(iv) of VSSUT Act,

2008; looking at the changing needs of the society and the same is in line with the objectives of the University and the requirements of NEP-2020.

7. It is further submitted by the learned counsel for the Petitioner that the Petitioner is the only faculty member working in the area of application of Subject-A i.e., Control System Engineering in the Subject-B i.e., Signal Processing and in order to meet the changing needs of the society, the Department incorporated Subject-C i.e., Professional Ethics, Professional Law and Moral Values in the 5th Semester of B.Tech, Electrical Engineering. Since, there are no other regular teachers in the Department to teach and research on application of Subject-A in the Subject-C, the petitioner planned for his Research Degree in this area and applied for the study leave.
8. Having regard to the circumstances in which the Petitioner has been declined Study Leave, it cannot also be said that the Opposite Parties have acted beyond the parameters of law. It is seen that grant of study leave is subject to the exigency of public service and must have direct and close connection with the sphere of applicant's duty. The rule mandatorily requires the competent authority to certify that the proposed course

of instruction shall be of definite advantage from the point of view of public interest. It is also relevant to note that grant of study leave is not for higher study simpliciter. The higher study must be of the nature and description as envisaged in the rules.

9. It is, therefore, for the competent authority to take care of the compliance of the requirement of the rules with regard to grant of study leave. If the rule envisages that the competent authority is to certify that the proposed course of study will be of definite advantage from the point of view of public interest, the opinion of the applicant to the contrary will not be of much relevance. Once the competent authority has declined to certify, the applicant cannot assail the same for the reason that he holds a different opinion so as to say that the proposed course of study would be beneficial to the department.

10. However, the application for study leave cannot be rejected mechanically and it is imperative on the part of the concerned authority to examine whether a higher study or special training in a professional or technical subject is having a direct and close connection with the sphere of said duty. It is also imperative to examine whether the higher study in which the applicant is

intending to join, is capable of applying his mind to improve his abilities and to equip him better to perform his duties.

11. In the present case, the Petitioner intends to pursue a LLB course in order to research about the applicability of Control System Engineering in Professional Ethics, Professional Law and Moral Values. Though the objective of the Petitioner is noble from an academic point of view and directed towards interests of the University, the same is untenable and not beneficial from the University's standpoint. The paramount factor that weighs in the mind of the competent authority is 'public interest' and the competent authority has to take a considered decision as to whether the study leave, if granted, would be of definite advantage from the point of view of public interest.

12. In the case of *Sant Longowal Instt. Of Engg&Orsvs Suresh Chandra Verma*¹, the Supreme Court observed:

"A Government servant or person like the respondent is given study leave with salary and allowances etc. so as to enable him to complete the course of study and to furnish the certificate of his successful completion, so that the institute which has sanctioned the study leave would achieve the purpose and object for granting such study leave."

¹ (2013) 10 SCC 411

The purpose of granting study leave with salary and other benefits is for the interest of the Institution and also the person concerned so that once he comes back and joins the institute the students will be benefited by the knowledge and expertise acquired by the person at the expense of the institute."

13. The question whether Study Leave can be granted for undertaking a course of instruction that is not beneficial for the interest of the institution was considered by a two-judge bench of Delhi High Court in the case of *Asha Rani v. Union of India Through Secretary and Others*². In the concerned case, the petitioner was employed as a Staff Nurse at Employees State Insurance Corporation (ESIC) Hospital and wanted to apply for higher study of M.Sc. (Nursing) Course of two years. However, the study leave sought by the Petitioner was rejected on the grounds that "the course being applied for is not a requirement for the job being performed". The Court upheld the decision rendered by CAT which reads here asunder:

"(i) the respondents were permitting the petitioner to pursue higher studies but pursuing the higher studies by mandatorily allowing the petitioner study leave, was an issue which was well within the domain of the authorities to

² 2021 SCC OnLine Del 3361 : (2021) 169 FLR 611

decide, having regard to the functional requirement of the organisation and impact of the said higher studies in the functional improvement or definite advantage in the respondent organisation;

(ii) no employee can be allowed to claim study leave as a matter of right;

(iii) there was not a single post for which M.Sc. (Nursing) qualification was required mandatorily and as such M.Sc. (Nursing) qualification does not provide definite advantage to the respondents ESIC and which is an essential criterion for granting study leave."

14. In the case of ***State of Punjab & Ors. v. Dr. Sanjay Kumar Bansal***³, the Supreme Court held that Special leave is not a matter of right vested in the employee. The Court further iterated that the matters pertaining to special leave fall in the category of "administrative exigencies" and the Court cannot sit in appeal thereon.

15. Indisputably, in the case at hand, the decision of the Opposite Party in not granting Study Leave to the petitioner to pursue LLB course on the grounds that it is not beneficial for the department of Electrical Engineering in particular and University, in general, is neither arbitrary, nor discriminatory, nor violative to the well-settled position of law.

³2009 (15) SCC 168

16.From the above, it is clear that the Courts, in exercise of its power of judicial review, cannot sit as an Appellate Authority over the decision taken by the administration / management of a University/Institute. Suffice would it be to state, the decision has been taken, giving due regard to the exigencies, which may arise in the course of administration and functioning of the University.

17.This Court is conscious of the fact that the Petitioner being a meritorious candidate, has a legitimate expectation to acquire a higher qualification and advance in his career and work for the interest of the University and public at large but at the same time, as an employee working in the University, is bound by the Rules and Administrative decisions that clearly stipulate that the grant of study leave is not a matter of right, as the same shall be granted with due regard to the exigencies of public service and benefit of the concerned Department of Engineering in particular and University in general.

18.In the circumstances, there is no merit in the petition and accordingly, the same is dismissed. However, this order shall not preclude the applicant to seek for granting of study leave in future or in courses that align with his field of study and in such an event, the

Opposite Parties shall consider the same as per rules and as per the administrative exigencies existing at that time.

19. Accordingly, the Writ petition is dismissed. No order as to cost.

B.Jhankar



(Dr. S.K. Panigrahi)
Judge