

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

206

CWP-18416-2017

Date of Decision :23.11.2022

Lalit Roopesh

...Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Deepak Girotra, Advocate and
Mr. Akshit Grover, Advocate for the petitioners.

Mr. Rajesh Gaur, Addl. A.G. Haryana.

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Harsimran Singh Sethi, J. (Oral)

In the present writ petition, the grievance of the petitioner is that the petitioner was transferred vide order dated 01.04.2016 (Annexure P1/) passed by the respondents from Government Senior Secondary School, Jhajjar, District Jhajjar to Government Senior Secondary School, Kanonda, District Jhajjar. The said action of transfer was challenged by the petitioner by way of filing CWP-9575-2016 wherein, operation of the impugned order of transfer was stayed by this Court and the petitioner was allowed to continue to work at Government Senior Secondary School, Jhajjar, District Jhajjar but instead of the fact that stay was granted by this Court, the petitioner was not allowed to work at Government Senior Secondary School, Jhajjar, District Jhajjar.

Learned counsel for the petitioner argues that the said transfer order was ultimately cancelled by the respondents but the grievance of the

petitioner is that the period starting from 08.04.2016 to 18.05.2016 when the petitioner was not allowed to discharge his duties at Government Senior Secondary School, Jhajjar, District Jhajjar, is being treated as leave of the kind due whereas, the said period is required to be treated as duty period for all intent and purposes especially, when operation of the impugned order of transfer was stayed by this Court and the said order of transfer was ultimately withdrawn by the respondents vide order dated 27.06.2016 (Annexure P/3).

Upon notice of motion, the respondents have filed reply, wherein, it has been stated that once the petitioner was transferred, it was the duty of the petitioner to join at the new place of posting but as the petitioner did not join hence, for the period the petitioner did not join his new place of posting, the said period has rightly been treated as leave of the kind due. Learned State counsel concedes the fact that the order of transfer was stayed by this Court in CWP-9575-2016 and, thereafter, the same was ultimately cancelled by the respondents.

I have heard learned counsel for the parties have gone through the record with their able assistance.

The only grievance of the petitioner is that the period starting from 08.04.2016 to 18.05.2016 is not being treated as duty period but has been treated as leave of the kind due. Once, the transfer order in pursuance to which the petitioner was required to join at a new place of posting was stayed by this Court, that means, the same does not exist and the petitioner continued to work at his old place of posting and, ultimately, the said order of transfer was cancelled by the respondents themselves, hence, period for

which the petitioner was not allowed to work at Government Senior Secondary School, Jhajjar, District Jhajjar from 08.04.2016 to 18.05.2016 needs to be treated as duty period for all intent and purposes especially, when the said order of transfer was ultimately cancelled by the respondents themselves.

Learned counsel for the petitioner submits that the petitioner will not claim actual salary for the period in question in case all the other benefits are given to him.

That is the fair proposal from the petitioner's side, which needs to be accepted.

Keeping in view the above, the order dated 22.11.2016 (Annexure P/5), by which, period starting from 08.04.2016 to 18.05.2016 has been treated as leave of the kind due by the respondents, is quashed and respondents are directed to treat the said period as duty period for all intent and purposes except the payment of salary for the said period.

Petitions stands allowed in above terms.

November 23, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No