

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

(233)

CWP-18603-2020

Date of Decision : November 16, 2022

Sajjan Kumar and others

.. Petitioners

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Thakan, Advocate, for the petitioners.

**Mr. Sandeep Singh Maan, Additional Advocate General,
Haryana.**

HARSIMRAN SINGH SETHI J. (ORAL)

In the present writ petition, the grievance of the petitioners is that the petitioners have not been granted the benefit of Leave Travel Concession (LTC) for the block year 2016-2019 though they were fully eligible for the grant of the same.

As per the petitioners, the petitioners competed for appointment to the post of JBT Teacher in pursuance to the advertisement No.2 of 2012 dated 08.11.2012. The petitioners got selected but they were not appointed but persons junior to them were appointed in the year 2017. Ultimately, the respondents realized their mistake and issued appointment order to the petitioners also keeping in view the merit secured by them and they were appointed vide appointment order dated 27.03.2019 (Annexure P-3).

Not only the petitioners but there were other selected candidates also, who were also given the appointment in the year 2019 though their juniors had already been appointed in the year 2017. A writ petition being

CWP No.19337 of 2019 was filed claiming the appointment with retrospective effect along with other consequential benefits. In the said writ petition, the respondents filed a reply stating that in case it is found that any of the candidate who has lesser merit than the petitioners have been appointed before the appointment of the petitioners, the same will be rectified and notional appointment will be given to the petitioner-candidates with effect from the date a candidate having lesser merit than them have been appointed. By disposing of the writ petition, the said decision was generalized by this Court that all the candidates, who are entitled for the said benefit, be extended the same.

As per the petitioners, the petitioners were given retrospective appointment from 03.05.2017 on notional basis though their actual joining was 23.02.2019 and the grant of the said benefit has been appended as Annexure P-8.

Learned counsel for the petitioners argues that once the petitioners' appointment has been antedated to 03.05.2017 for the purpose of grant of seniority and increment, the same has to be taken into account for the grant of LTC also for the session 2016-2019 as the petitioners have already deemed to have rendered one year service within the said session 2016-2019.

After notice of motion, the respondents have filed the reply wherein, the respondents have stated that once the petitioners were actually appointed in February 2019, one year service has to be counted from the said date and not from any other date and therefore, as the petitioners did not complete one year service within the session 2016-2019 to claim LTC for the period 2016-2019, the said benefit will only be admissible to the petitioners in the LTC from the year 2020-2023 only.

Learned counsel for the respondents submits that as the

petitioners were on probation and had not cleared the probation upto the year 2019, the benefit of LTC could not have been given them to a temporary employee.

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

The denial of the benefit to the petitioners is only on the ground that their actual appointment is of February 2019 though, it has been conceded by the learned State counsel that keeping in view the order passed by the Coordinate Bench of this Court in ***CWP No.19337 of 2019 titled as Mohini and others vs. State of Haryana and others, decided on 16.09.2019 (Annexure P-6)***, the petitioners's appointment has been antedated to May 2017 with the notional benefit of increment.

Once, an appointment dated 23.02.2019 has been antedated to May 2017, the same has to be treated as a date of appointment for all intent and purposes. Even for the grant of LTC, the appointment of the petitioners has to be taken of May 2017 and not of February 2019. It cannot be said that for the purpose of seniority and increment, the petitioners are deemed to have been appointed in May 2017 but for the grant of LTC, the date of appointment of the same employee is to be treated as February 2019.

No rule has been cited before this Court that there can be two dates of appointment of a particular candidate to award service benefits. Hence, once the date of appointment has been antedated to May 2017 and that too in pursuance to the order passed by this Court, the said date has to be taken into account even for the grant of LTC.

Further argument of the learned counsel for the respondents is that the petitioners have not cleared their probation upto the end of LTC period

from 2016-2019, the same has also to be addressed keeping in view the facts and circumstances of this case.

Once, the appointment of the petitioners has been antedated to May 2017 and it is a matter of fact, which is not disputed that though the probation of the petitioners stands cleared as of now, the grant of benefit cannot be withheld merely on the ground that the petitioners were on probation in the year 2019.

The maximum period of probation as provided is of two years which the petitioners completed within the session 2016-2019 keeping in view their appointment in May, 2017, hence, the act of the respondents in taking the appointment of the petitioners from February 2019 so as to decline the benefit of LTC for the period 2016-2019 is incorrect and is consequently set aside.

The respondents are directed to consider the grant of benefit to the petitioners for the LTC for the period 2016-2019 by taking into account the date of appointment of the petitioners as May 2017. Let the claim of the petitioners be considered keeping in view the present order and in case the petitioners are found entitled for the benefit of the LTC for the session 2016-2019, the same be granted to them within a period of four weeks from the receipt of copy of this order.

The present writ petition is allowed in above terms.

November 16, 2022

harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No