

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

CWP-3366-2018

Date of decision: 15.09.2022

Narender Kumar

.....Petitioner.

vs.

State of Haryana and others

.....Respondents.

CORAM: - HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: - Mr. S.K. Malik, Advocate, for the petitioner.

Mr. Sandeep Singh Maan, Addl. AG, Haryana.

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Harsimran Singh Sethi, J. (oral)

In the present petition, the grievance of the petitioner is that the petitioner has not been extended the benefit of leave encashment as per his entitlement, which act on the part of the respondents is bad in law as well as the fact.

As per the facts mentioned in the petition, the petitioner retired on 31.12.2015. Prior to his retirement, the petitioner had applied for the grant of earned leave on 19.04.2015 starting from 01.05.2015 to 30.06.2015 but the said application was declined by the competent authority. Thereafter, once again the petitioner submitted an application for grant of earned leave from 14.07.2015 to 30.09.2015, which application was also rejected, despite the fact that the petitioner had approximately 570 days earned leave in his credit at the time of

periods of earned leave i.e. 01.05.2015 to 30.06.2015 as well as 14.07.2015 to 30.09.2015, the petitioner, is entitled for the encashment of earned leave over and above his entitlement of encashment of earned leave as envisaged under the Rule.

After notice of motion, the respondents have filed the reply wherein it has been mentioned that keeping in view the shortage of the staff and the flood situation, the prayer of the petitioner for the grant of earned leave was declined for a period from 01.05.2015 to 30.05.2015 and keeping in view the same status of the staff and the flood situation, the leave was again declined for the period from 14.07.2015 to 30.09.2015 but later on, the petitioner applied for the grant of earned leave from 01.10.2015 to 29.12.2015, which was sanctioned, hence, the declining of the leave by the authority concerned was perfectly inconsonance with law keeping in view the facts and circumstances those existed.

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

The prayer of the petitioner is that the petitioner should be granted the benefit of leave encashment for the period from i.e. 01.05.2015 to 30.06.2015 as well as 14.07.2015 to 30.09.2015.

The question, which is to be ascertained, is whether, the said benefit can be granted to the petitioner by ignoring the maximum limit fixed by the Government under the rules qua the grant of leave encashment.

Learned counsel for the petitioner conceded the fact that the earned leave beyond 300 days cannot be encashed. It is also a

conceded position that the petitioner has already been extended the

said benefit of encashment of 300 days of leave.

That being so, no Rule has been cited which permits the encashment of the earned leave beyond the maximum limit fixed under the Rules. In the absence of any Rule, no benefit of leave encashment can be granted to the employee beyond 300 days.

The claim of the petitioner is that as the leave beyond 300 days was available in the credit of the petitioner at the time of his retirement, which leave was declined to him to be availed, the same needs to be encashed even if the maximum limit fixed by the government is to be crossed. The said argument is totally fallacious and cannot be accepted. Even if an earned leave is available in the credit of an employee, the same cannot be availed as a matter of right and that too as and when the same is asked for by an employee, by ignoring the facts and circumstances in which the leave(s) has been claimed. The competent authority is well within its jurisdiction to decline the grant of earned leave even if the same is being asked for out of the available earned leave in case, the situation demands the working of an employee concerned at the relevant period. Hence, the declining of the grant of earned leave due to the shortage of the staff and the flood situation in the area concerned, cannot be termed as illegal or will give a right to the petitioner to claim the encashment of the said declined earned leave and that too over and above the maximum limit fixed under the rules for encashment of the earned leave.

Keeping in view the above, once, the petitioner has already been extended the encashment of the maximum earned leave

available under the rules and regulations, the same cannot be extended

merely on the ground that the petitioner was declined the grant of earned leave, which was available over and above the maximum limit fixed for encashment.

Dismissed.

15.09.2022
kanchan/preeti

(HARSIMRAN SINGH SETHI)
JUDGE

whether speaking/non speaking yes

whether reportable/non reportable no