

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

117

CWP-24762-2022

Date of Decision :29.10.2022

Ved Parkash

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jai Vir Yadav, Senior Advocate with
Mr. Harshvardhan Ranga, Advocate for the petitioner.

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Harsimran Singh Sethi, J. (Oral)

In the present writ petition, order dated 20.05.2019 (Annexure P/2) as well as order dated 15.10.2019 (Annexure P/4) have been challenged by which, the leave preparatory to retirement of the petitioner has been declined by the respondents.

Learned Senior counsel by placing reliance upon Rule 43 of the Haryana Civil Services (Leave Rules), 2016 argues that a Government employee may be permitted by the competent authority for grant of the leave preparatory to retirement, which can be granted upto 180 days but the request for the grant of said leave by the petitioner though, initially accepted by the respondents but was later withdrawn by the impugned order 20.05.2019 (Annexure P/2) and, thereafter, again the same request of the petitioner for the grant of leave preparatory to retirement from 15.10.2019 to 29.10.2019 was rejected, which act on the part of the respondents is

totally arbitrary and illegal as no reason has been given for rejecting the leave claimed by the petitioner.

Second prayer of the petitioner is to compensate the petitioner for declining the relief, for which, the petitioner was entitled for, under the rules governing the service.

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

The present writ petition has been filed by the petitioner on 13.10.2022 i.e. after more than two and a half years of passing of impugned order dated 20.05.2019 (Annexure P/2), which was passed while the petitioner was in service. The petitioner did not challenge the said order immediately but only approached the respondents by filing representation which was also filed on 29.10.2021 i.e. two days prior to his retirement. Once, the leave has been rejected by the respondents and the claim of the petitioner for the grant of leave is not a matter of absolute right, no relief can be granted to the petitioner at this stage even if, it is assumed for the sake of arguments that Annexure P/2 as well as Annexure P/4 declining the grant of leave was not in accordance with law. The petitioner has already served for the period, for which, the leave was asked for but was declined hence, under these circumstances, once the petitioner has already retired as of now even if, those orders are held to be bad under law, no effective relief can be granted to the petitioner.

Learned Senior Counsel submits that in case Annexure P/2 and P/4 are held to be bad under law, the petitioner is entitled for the grant of compensation.

The compensation can only be granted after adducing evidence

before the Civil Court and that too after recording a finding that authorities acted contrary to the law, which caused loss to the petitioner. In case petitioner is of the view that he needs to be compensated, he can avail the appropriate remedy before the Civil Court.

Keeping in view the above, the present writ petition is disposed off with the observations that in case petitioner intends to claim compensation for wrongful denial of leave to him, he is at liberty to avail an appropriate remedy before the Civil Court. It is made clear that in case petitioner avail the said remedy, same be decided on merit without being influenced by this order in any manner.

October 29, 2022

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No