

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

201

CWP-8197-2020 (O&M)

Date of Decision: 01.02.2023

PARDEEP BOORA

... Petitioner

Versus

STATE OF HARYANA AND ORS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Mohit Garg, Advocate
for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

Mr. Kanwal Goyal, Advocate and
Mr. Govind Tanwar, Advocate
for respondents No.3 to 5.

HARNARESH SINGH GILL, J.(Oral)

By way of the instant petition, the petitioner seeks issuance of a writ in the nature of Certiorari quashing the impugned order dated 27.01.2020 (Annexure P-11), vide which the duty period of the petitioner from October, 2015 to March, 2016, has been ordered to be treated as 'absence'; lowering down one Annual Performance report (APR) of the petitioner and ordering recovery of the deficit salary for the period, in which the APR of the petitioner, was lowered.

Learned counsel for the petitioner submits that on 02.07.2013, the petitioner was appointed as Block Resource Person (BRP) on contract basis in Haryana School Shiksha Pariyojna Parishad, in Social Studies and he has been working as such since then; that the

respondent-Department formulated a policy dated 29.09.2015 regarding running of Learning Enhancement Programme (LEP) in more than 3000 schools in the State of Haryana and that, as per the said policy, the persons selected under it, should be given a training at State Council of Educational Research and Training (SCERT) improving the standards of education to be imparted in the Schools of Haryana and the said persons shall not be sent anywhere either on deputation or transfer. He further submits that on 15.02.2016, subsequent instructions were issued by the Government of Haryana, as per which a Mentor was to be assigned 5-10 LEP schools for visiting the same twice a month, in addition to which, the mentors were to meet the BEE on one day, DIET on one day and organize a peer circle on one day.

Learned counsel for the petitioner further submits that the petitioner was allocated the duties of mentor in Block Kalayat, District Kaithal for LEP, pursuant to which, he started performing his duties and that, since there was no biometrics attendance system, the petitioner marked his attendance in the school's attendance register, due to which the salary of the petitioner for the said period, was not released by the Department.

Learned counsel for the petitioner further submits that it was the duty of the Block Officer to collect the attendance of the mentors directly from the schools and thus, the petitioner cannot be penalized for the same. He further submits that the petitioner filed various representations to the Department to release his salary; that the Department sought clarification from the concerned School regarding the

attendance of the petitioner; that the Office of Block Resource Coordinator wrote a letter dated 05.06.2018 to the District Project Coordinator stating therein that he had checked the attendance submitted by the petitioner with the attendance in the School's visitors register and found the same to be 'ok' and that, further, vide said letter, a noting was made that since the petitioner has marked his attendance in the visitors register, without the permission of the Block Resource Coordinator, the same may be treated as the attendance for the relevant period. Along with the letter, computation of the balance salary of the petitioner was also sent to the District Project Coordinator.

Learned counsel for the petitioner further submits that the respondent-authorities granted approval to the Block Resource Coordinator for treating the entries made by the petitioner in the visitors register as attendance from October, 2015 to March, 2016, as duty period and that vide letter dated 10.04.2019, the Block Resource Coordinator approved the release of the salary of the petitioner for the said period. However, despite that and issuance of various reminders, the salary of the petitioner from October, 2015 to March, 2016, has not been released till date.

On the other hand, learned counsel for respondents No.3 to 5 submits that the petitioner was working under respondent No.5-Block Resource Coordinator, Sarva Shiksha Abhiyan (SSA) and Rashtriya Madhyamik Shiksha Abhiyan (RMSA); that as per the instructions of Learning Enhancement Programme (LEP), the mentors were supposed to

submit their school tour schedule in advance to the block office, which could be used to mark their biometrics attendance; that, since, the petitioner did not submit his school tour schedule in advance and visited the school, at his own, his salary for the said period could not be released. He further submits that the said visit of the petitioner from October, 2015 to March, 2016 was without any approval and that the petitioner, during the said period, did not mark his attendance in the school attendance register and only marked the same in the visitors register. Still further, it is submitted that the petitioner tendered his written apology on 30.05.2016, stating therein that he will not raise any dispute regarding the payment of salary for the period in question.

Learned counsel further submits that, after a gap of about two years, the petitioner moved a representation dated 06.12.2017 requesting to release his salary for the period under dispute and that since the conduct of the petitioner, for the aforesaid period, was not upto mark, the respondent-authorities had shown displeasure and were not ready to extend his contract.

Learned State counsel further submits that after receipt of the representation, the matter was kept under consideration; that respondent No.3 deputed an officer from the Head Office to inquiry into the matter; that on 10.07.2019, the inquiry officer submitted his comments stating therein that the petitioner had intentionally violated the instructions issued by the Department and visited the school at his own level and that the petitioner had not submitted the requisite online report of LEP work.

He further submits that the petitioner applied for casual leave for 26.10.2015, 10.11.2015, 28.12.2015 and 29.12.2015 on 30.01.2019 i.e. after a period of about three years and the said days were treated as non-duty period.

Learned counsel further submits that a complaint was received on CM window against the petitioner and one Narender Kumar, in which an inquiry was conducted; that in the said inquiry, the petitioner along with Narender Kumar, were called for personal hearing and that, a conclusion was drawn that the petitioner and Narender Kumar had not obtained any prior approval for their visit to the respective schools.

Learned counsel further submits that vide letter dated 12.01.2021 the Deputy Director, State Project Director, wrote to the District Project Coordinator, that the benefits of the dearness allowance of the petitioner will be fixed as per the Service Bye-laws, 2013 of HSSPP, for the year 2018-19 (as the case may be) and will be released, subject to the outcome of the CWPs pending in the High Court. He further submits that except the dues in question, all the other dues have already been paid to the petitioner.

I have heard the learned counsel for the parties.

There is no denial to the fact that the petitioner went to the school for Learning Enhancement Programme (LEP), but without any approval or prior intimation to the Department concerned.

Point No.2 of the Learning enhancement Programme, would

read as under:-

'1. xxxxxxxx

2. *Bio metric attendance for mentors:- Mentors need not report to block offices first thing in the morning if they have planned to school visit. They should report to the school directly to observe the LEP hour and carry out their mentoring work. Mentors should submit their school tour schedule in advance to the block office, which can be used to mark their bio metric attendance. Block officers should take the actual attendance of the mentors directly from the schools. Once bio metric attendance facility is available in the schools, mentors must mark their attendance on bio metric attendance machine'.*

Thus, it is clear that the mentor, who intends to visit the school, has to intimate the block office in advance regarding the same, which in the present case was not done, at any stage.

Further, the petitioner, while tendering his apology on 30.05.2016 (Annexure R-2), had specifically stated that he, on his own, was responsible for the loss of salary caused to him and had undertaken that he would not file any claim regarding the same. Thus, once the petitioner has admitted the guilt on his part and has waived off the right to claim the same in future, he cannot insist the same, at this stage, being barred by his own undertaking.

Above all, the petitioner had applied for the casual leave for

26.10.2015, 10.11.2015, 28.12.2015 and 29.12.2015 on 30.01.2019 i.e. after a period of about three years and the said days were treated as non-duty period. The said fact on the part of the petitioner speaks volumes of his conduct and negligence towards his duty.

In view of the above, I find no merit in the present petition.
Dismissed.

01.02.2023	(HARNARESH SINGH GILL)
Aman Jain	JUDGE
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No