

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

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**CWP-11986-2019(O&M)
Date of Decision:-10.08.2023**

SHAMSHER SINGH

...PETITIONER

Versus

STATE OF HARYANA AND ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ramesh Hooda, Advocate
for the petitioner.

Mr. Sandeep S. Mann, Addl. A.G., Haryana.

Mr. Anil Chawla, Advocate
for respondents No.2 and 3.

SANDEEP MOUDGIL, J. (Oral)

The instant petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of writ in the nature of certiorari/mandamus for quashing the order dated 21.01.2019(Annexure P-3) and directing respondent No.3 for considering the case of the petitioner under exceptional circumstances, as retaining allowance was declined on the pretext that the petitioner was on leave beyond 10 days i.e. from 19.03.2018 to 07.05.2018.

Reference in that regard on behalf of the respondents No.2 and 3 has been made to Rule 17 Clause (iii) of The Service Rules for the Employees of the Cooperative Sugar Mills in the State of Haryana, wherein sick leave has been explained stating that maximum 10 days sick leave can be availed by an employee in each year and such leave shall be availed after submitting medical certificate

from registered Medical Practitioner, Government/Factory Medical Officer to the satisfaction of the sanctioning authority. The material part of this Clause reads as under:

“indoor expenses actually paid for treatment in a Government hospital will be reimbursed to the employee on the certification of the concerned Medical Officer.”

Learned counsel for respondents No.2 and 3 though very fairly submits that the medical reimbursement was made for treatment undergone by the petitioner during the period he was working but under Rule 17(iii) only 10 days sick leave can be availed by an employee within one year.

However perusal of the Rules further particularly Rule 17(iv) provides for extraordinary leave (leave without pay) vide clause (a) which reads as under:

“Extraordinary leave without pay may be sanctioned to an employee in special circumstances when no other kind of leave is admissible to him.”

In the present case also, the case seems to be covered in this Clause wherein beyond 10 days, an employee cannot seek sick leave but since the petitioner was an indoor patient and underwent major surgery, as he got fracture in both his legs, therefore medical allowances were reimbursed by respondents No.2 and 3.

This factual aspect as well as provisions of the abovesaid Rules have not been controverted by learned counsel for respondents No.2 and 3.

In the light of the above, the case of the petitioner is covered by the provisions of Service Rules namely The Service Rules for the Employees of the Cooperative Sugar Mills in the State of Haryana itself, especially Rule 17(iv) after availing 10 days of sick leave as envisaged in Rule 17(iii).

Considering the aforesaid factual legal proposition as is crystallized from the Service Rules and terms and conditions of the service of the petitioner, he is eligible for all such benefits during the period he availed medical leave for the period from 19.03.2018 to 07.05.2018, including the pay of salary as well as retaining allowance.

As has been discussed hereinabove and relying upon Rule 17 Clause (iii) read with Clause (iv) in *toto*, the present petition stands allowed.

Respondents No.2 and 3 are directed to compute and release the amount on account of salary for sick leave for the period from 19.03.2018 to 07.05.2018 along with interest at the rate of 9% per annum from the date it became due till the date of its realization, as the petitioner was quite vigilant and alert in claiming his legal right accruing to him from the Service Rules as observed hereinabove.

All pending miscellaneous applications, if any, also stand disposed of.

10.08.2023
P.Bhatt

(SANDEEP MOUDGIL)
JUDGE

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