

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No. 233 CWP-18665-2019
Date of Decision:-16.08.2023

GURDIAL SINGH AND ORS ...PETITIONERS

VS

THE PRINCIPAL SECRETARY URBAN LOCAL BODIES HARYANA
AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present:- Mr. Krishan Singh, Advocate for the petitioners.

Mr. Gaurav Jindal, Addl. A.G. Haryana.

Mr. Hardeep Singh Poonia, Advocate for
Mr. Rajesh K. Sheoran, Advocate for respondent No.4.

SANDEEP MOUDGIL, J. (Oral)

1. This is a Civil Writ Petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the notice dated 19.03.2019 (Annexure P-4), passed by respondent No.4 whereby the claim of the petitioner for leave encashment of 300 days was rejected.
2. The facts of the case are that the petitioners were appointed as Tax Inspector, Fireman, Octroi Peon and Meter Mechanic and their particulars of appointment and retirement are as under:-

Sr. No.	Name	Date of Appointment	Date of Retirement
1	Gurdial Singh son of Shri Bhagat Ram	19.04.1968 as OIB	31.01.2002 as Tax Inspector
2	Mela Ram son of Sh. Jiwan Dass	16.02.1965 as Fireman	30.06.2000 as Fireman
3	Inder Kumar son of Shri Ram Narain	25.06.1972 as Octroi Peon	28.02.2005 as Clerk
4	Devi Dass son of Shri Wazir Chand	22.12.1977 as Meter Mechanic	31.12.1999

3. It is contended that the work and conduct of the petitioners were satisfactory throughout their service tenure. It is further contended that the Government of Haryana vide notification dated 12.08.1998 had decided to grant 300 leave encashment, instead of 240 days w.e.f. 01.07.1997, which reads as under:-

- “ i) Retirement on attaining the age of superannuation;*
- ii) Cases where the service of a Government employee has been extended in the interest of Govt. service, beyond the date of retirement on superannuation.*
- iii) voluntary/pre-mature retirement;*
- iv) Where the services of a Government servant terminated by notice or by payment of allowance in lieu of notice or other in accordance with the terms and conditions of appointment.*
- v) In the case of termination of re-employment/retirement;*
- vi) In the case of death of a Government Employees while in service, to the family of the deceased.*
- vii) In the case of leave preparatory to retiree.*
- viii) In the case of transfer of a Government servant to an industrial establishment;*
- ix) On absorption of a Government servant/Central Public Sector undertaking/autonomous body, wholly or substantially owned or control of the Central/State Government.*
- x) A government servant who resigns or quit service shall be entitled to cash equivalent of earned leave at credit on the date cession of service, to the extent of his such leave at his credit, subject to maximum of 150 days.*

There will however, be no change in the existing terms and conditions for the grant of this benefit.”

4. Further at the time of retirement of the petitioners the leave encashment of only 240 days was granted to them which compelled them to serve a legal notice dated 11.07.2018 (Annexure P-2) upon the department. Further the legal notice was not accepted and vide impugned order dated 19.03.2009 (Annexure P-4) the claim of the petitioner for grant of leave encashment to the extent of 300 days has been rejected on the ground that petitioners is not eligible for the benefit of leave encashment of 300 days as per the letter no.16/29/01 2C1 dated 08.02.2008 of Commissioner and Secretary to govt. Haryana, Urban Local Bodies because petitioners had already been retired before 05.03.2005. It is contended by the petitioner that the issue of grant of leave encashment of 300 days was conceded by Hon'ble Division Bench

of this Court in **LPA-1103-2011** titled as **Mansa Ram and Others Versus State of Haryana and Another** decided on 01.09.2011.

5. This Court has gone through Mansa Ram case (supra) and the relevant part of the judgment is reproduced as under:-

The claim made by the appellants in para No.2 of the appeal is that they had superannuated which would show that they fall in category (i) of the instructions dated 12.08.1998 (P-2). They have also placed reliance on The Municipal Employees Pension and other Provident Funds Rules, 1993 which in turn say that the benefit of pension would be given in accordance with Punjab Civil Service Rules, Volume-II as applicable to the State of Haryana and those rules shall mutatis mutandis apply to the appellants.

In view of the above the appeal is allowed. The order of the learned Single Judge is set aside. A direction is issued to the respondents to consider the cases of the appellants for grant of benefit of additional 60 days leave encashment of unutilized earned leave in the light of the instructions dated 12.08.1998 (P-2). If they are found eligible for this benefit, the same shall be disbursed to them within a period of two months from the date of receipt of copy of this order.

6. In view of the aforesaid judgment and stand taken by the state that according to the letter no.16/29/01 2C1 dated 08.02.2008 of Commissioner and Secretary to Govt. of Haryana, Urban Local Bodies, the petitioner is not eligible for leave encashment of 300 days because he had already retired before 30.03.2005 is wholly unjustified and discriminatory. As instructions dated 12.08.1998 categorically provides for leave encashment for 300 days w.e.f. 01.07.1997 and claim of petitioners fall under category (i) of above mentioned instructions.

7. Therefore, the respondents are directed to grant leave encashment for a period of 300 days instead of 240 days. In view of instructions dated 12.08.1998 issued by Secretary to Government of Haryana, Finance Department.

8. Consequently, the present writ petition is disposed of in terms of Mansa Ram case (Supra).

(SANDEEP MOUDGIL)
JUDGE

16.08.2023
yogesh

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No