

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(103) CM-19049-CWP-2023 in/and
CWP-22742-2018
Date of Decision : November 17, 2023

Inder Raj .. Petitioner

Versus

State of Haryana and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Kumar Goyat, Advocate, for the petitioner.

Mr. Pankaj Middha, Addl. Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-19049-CWP-2023

Present application has been filed for recalling the order dated 16.10.2023, by which, the present writ petition was dismissed for non-prosecution.

Notice of the application to the counsel opposite.

Mr. Pankaj Middha, learned Addl. Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondents. He raises no objection for the grant of prayer as raised in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the same is allowed. The order dated 16.10.2023 is recalled and the writ petition is restored to its original number and status.

CWP-22742-2018

1. In the present writ petition, the challenge is to the order dated 19.03.2018 (Annexure P-2) by which, earned leave applied by the petitioner was declined.

2. Learned counsel for the petitioner submits that the petitioner had applied for the grant of earned leave for a period of three months starting from 20.03.2018 to 25.06.2018 but the said leave was declined by the respondents and that too in a totally illegal and arbitrary manner.

3. Upon notice of motion, the respondents have filed the reply stating that keeping in view the fact that the work of the wheat purchase was being done in the Hisar circle at the relevant time and the presence of the petitioner was very much necessary to discharge the duties, hence, keeping in view the exigencies of service, the earned leave of the petitioner was declined, which is within the domain of the respondent-Department.

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

5. It is a settled principle of law that the employee can get only leave which is admissible but with the due approval of the Government. No employee has an absolute right to seek and avail the leave unless and until employer approves the same.

6. Learned counsel for the petitioner has not been able to show any Rules to prove that the earned leave can be taken at the whim of the petitioner without requiring any approval from the authorities concerned. Furthermore, learned counsel for the petitioner has also not been able to prove that the respondents did not had the jurisdiction to decline the earned leave to the petitioner.

7. In the absence of any such Rule being brought on record to show that the petitioner has undefeasable right to seek earned leave and that too without approval of the Department, the claim of the petitioner that he should have been given the leave and said request was wrongly denied by the respondents, cannot be accepted.

8. Further, in the impugned order, due reasons have been given by the respondent-Department to decline the leave. It has been mentioned that it was a wheat purchase season for which, the duties of the petitioner were very much required. That being so, a valid reason has already come on record to show that the services of the petitioner were needed by the Department at the time when he had applied for the earned leave.

9. Even otherwise, if the petitioner was aggrieved against the decision of the Department, he should have immediately approached the respondents. In the present case, leave was applied from 20.03.2018 to 25.06.2018. The impugned order was passed on 19.03.2018 whereas the present petition was filed in the month of September 2018 i.e. even after the expiry of the said claimed leave period. That being so, no ground is made out for any interference by this Court with the impugned order.

10. With regard to the claim of the wages for the said period i.e. for which earned leave was declined learned counsel for the petitioner conceded the fact that the employee is only entitled for encashment of 300 days of the earned leave in case the same are available to be encashed and the petitioner has already encashed 300 days of earned leave after the retirement. That being so, the grant of pay for the leave period in question being claimed by the petitioner will go beyond 300 days which is not permissible under the Rules governing the service hence, no ground is made out for the grant of prayer as raised in the present writ petition.

11. The writ petition is accordingly dismissed.

November 17, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes