

CWP-5154-2024 (O&M)

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

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Decided on : 04.03.2024

Chandigarh Industrial and Tourism Development
Corporation Ltd.

. . . Petitioner(s)

Versus

Gorakh Ram and another

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Ms. Madhu Dayal, Advocate
for the petitioner(s).

SANJAY VASHISTH, J. (Oral)

1. Chandigarh Industrial & Tourism Development Corporation Limited (CITCO), has filed present writ petition by challenging the order dated 03.08.2023 (Annexure P-1), passed by the learned Industrial Tribunal & Labour Court, UT, Chandigarh (for brevity, 'learned Tribunal'), whereby, while deciding LCA No.9/2021, application filed by respondent No.1 – Gorakh Ram (workman), under Section 33-C(2) of the Industrial Disputes Act, 1947 (in short, 'ID Act'), has been answered in favour of respondent No.1.

2. By way of said application, workman (respondent No.1 herein) submitted that he was appointed by the Management/CITCO (petitioner herein) as waiter in the year 1983, and he remained in uninterrupted employment up till October, 2014. At the time of superannuation, he claimed that he was drawing Rs.33,263/- p.m., as wages, and 300 leaves were in credit of the workman. He claimed entitlement to receive a sum of Rs.3,32,630/- towards payment of unclaimed leaves.

3. On the other hand, Management/CITCO (petitioner herein) opposed the claim of the workman by saying that though the service period of the workman expired in October 2014, on attaining the age of superannuation, but he was granted extension to continue in the service after the period of his superannuation. It has never been disputed by the Management that in October 2014, workman had 300 number of leaves to his credit. However, the Management claimed that during the extension period, he was terminated from the service, and therefore, as per the Punjab Civil Services Rules (Volume-II) Rule 8.21(b) of CPC, the applicant is not entitled to any relief. The reason of termination was that he played fraud on public, which was proved in the Departmental inquiry.

4. While dealing with the contention, learned Tribunal found that there is no substance in the submission of the Management, because, all the service benefits including leave encashment were required to be released to the employee, on the date of superannuation i.e. on 31.10.2014. Once the workman is found to be entitled for the relief claimed under Section 33-C(2) of the ID Act, there is no question to deny that claim, for any act done or proved after the said period.

5. During the course of hearing, learned counsel for the petitioner – Management, relies upon the Rule 7.1 of the Punjab Civil Services (Volume-I), Chapter VII, and submits that as per said Rule, any Government employee, who is dismissed or removed from the service, ceases to have any claim to pay and allowance, from the date of such dismissal or removal.

6. I have heard counsel for the petitioner and perused the material available on record.

7. This Court finds no substance in the submissions made by

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counsel for the petitioner, because, on 31.10.2014, when the cause of leave encashment had accrued to the workman, the same was required to be paid by the petitioner – Management, to the workman (respondent No.1), from that very time without any delay, and the Rule cited by the petitioner – Management, cannot be made applicable for the period which has no connection with the alleged act done by its workman/employee.

Thus, for the reasons recorded in the order impugned herein, and affirmed by this Court also, present writ petition is **dismissed**.

Pending misc. application(s), if any, also stands disposed of accordingly.

(SANJAY VASHISTH)
JUDGE

March 04, 2024

J.Ram

Whether speaking/reasoned: ✓ Yes/~~No~~

Whether Reportable: ✓ Yes/~~No~~