

**CWP-6339-1998 (O&M)****1**

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

(202)**CWP-6339-1998 (O&M)****Date of Decision : August 21, 2024****B.S. Mittal****.. Petitioner**

Versus

State of Punjab and others**.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Ashish Grover, Advocate, for the petitioner.

Mr. T.P.S. Chawla, Sr. Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance being raised by the petitioner is that the petitioner has not been paid the salary for the period from 10.12.1991 till 30.04.1992, which is arbitrary and illegal.

2. Learned counsel for the petitioner submits that the petitioner submitted a medical leave from 25.01.1991 to 15.02.1991 but as his condition did not improve, he kept on sending the application for the grant of leave, which application remained pending with the respondents and thereafter, the petitioner joined the service on 10.12.1991 at Sub Division Abohar but the petitioner was directed to seek permission of the higher authorities before joining and ultimately, the petitioner was only given posting order on 30.04.1992 but he has not been paid his salary from 10.12.1991 to 30.04.1992.

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3. Upon notice of motion, the respondents have filed the reply wherein, they have submitted that the petitioner remained absent without any valid leave as his sanctioned leave expired on 15.02.1991 and without there being any fitness certificate submitted by the petitioner, the petitioner on his own submitted a joining report at his last place of posting and when he was directed to get medical fitness certificate, he did not submit the same and ultimately, he was only given posting on 30.04.1992 and therefore, as the petitioner did not discharge the duties of the post in question from 10.02.1991 to 30.04.1992, the same cannot be treated as duty period for the grant of salary though, the said period has already been taken into account for the grant of increment and even the arrears have been paid.

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

5. It is a conceded position that the sanctioned medical leave of the petitioner was only upto 15.02.1991. Therefore, the petitioner remained absent though he kept on sending the medical leave application. It is further on record that due to the un-authorized absence, a charge-sheet was also issued against the petitioner. During the pendency of the said charge-sheet, the petitioner gave a joining report at his last place of posting on 10.12.1991 which was not accepted as the petitioner did not submit any medical fitness certificate. It was only on 30.04.1992 that the petitioner was given posting after which the petitioner was also given the salary. Under these circumstances where the petitioner remained absent without sanction of leave and without submitting a medical certificate, he submitted a joining report, it cannot be said that not allowing the petitioner to join in the

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absence of any medical fitness certificate especially when the petitioner remained absent on medical ground for a period of approximately one year, is arbitrary and illegal.

6. Once the petitioner was availing the medical leave, he was required to submit medical certificate so as to join the duties, which was never submitted on 10.12.1991 or till his posting orders were issued on 30.04.1992.

7. Under these circumstances, as concededly the petitioner has not worked for the period in question and that too because the petitioner never submitted the medical fitness certificate, the rejection of the prayer of the petitioner for the grant of salary cannot be arbitrary or illegal.

8. No ground is made out for any interference by this Court in the facts and circumstances of the present case.

9. Dismissed.

10. Any civil miscellaneous application pending if any, also stands disposed of.

August 21, 2024*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No