



263

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18916-2021
Date of decision: 06.11.2024

HARBANS LAL TANEJA

...Petitioner(s)

VERSUS

HARYANA STATE AGRICULTURAL MARKETING BOARD

...Respondent(s)

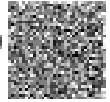
CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Anurag Jain, Advocate and
Ms. Preeti Taneja, Advocate for the petitioner.

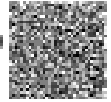
Ms. Mansi, Advocate for
Mr. Padamkant Dwivedi, Advocate for the respondent.

JASGURPREET SINGH PURI, J. (Oral)

1. The present writ petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the impugned communication bearing No.Admn-VI-2019/70226 dated 18.11.2019 (Annexure P-6) and order bearing No.Admn-VI-2019/74197 dated 05.12.2019 (Annexure P-7), whereby the claim of the petitioner for grant of Leave Travel Concession (LTC) benefit to the petitioner in terms of the Policy dated 29.10.2009 (Annexure P-1) has been wrongly and illegally declined with a further prayer to direct the respondent-Board to release the benefit of Leave Travel Concession (LTC) to the petitioner for the block year of 2012-2015, with immediate effect, alongwith interest @ 18% per annum from the date of accrual till the date of realization.



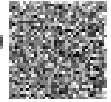
2. Learned counsel for the petitioner submitted that it is a case where the petitioner retired from the post of Executive Officer-cum-Secretary Market Committee on 30.04.2004. He further submitted that the petitioner is a pensioner and he has been drawing pension since the aforesaid date. He further submitted that there was a Policy of the State Government which was applicable to the respondent-Board, by which the employees were entitled for grant of Leave Travel Concession (LTC) and in case they do not avail the aforesaid benefit, then in that situation, in lieu of the aforesaid Leave Travel Concession (LTC), one month's salary was to be given to the employees but the same was applicable block wise i.e. for a period of four years. He further submitted that the aforesaid Policy was not applicable to the pensioners but by way of Annexure P-1 dated 29.10.2009, the Policy which was available for the employees who were serving was made applicable to the retired employees as well i.e. the pensioners. He further submitted that different blocks of four years were created i.e. 2008-2011, 2012-2015, 2016-2019, 2020-2023 and so on and in this way, those pensioners who had not availed the Leave Travel Concession (LTC) were to be granted one month's pension as a lump sum assistance once in a block of four years. He further submitted that when the petitioner retired, he got the aforesaid lump sum one month's pension for the first block year but for the second block year, he did not get the aforesaid benefit and at the same time for the subsequent block i.e. 2016-2019, he got the aforesaid one month's pension in lieu of Leave Travel Concession (LTC). He further submitted that now the claim of the petitioner is only pertaining to the block year of 2012-2015, for which he was not paid one month's pension because of the



reason that the petitioner never availed of the same by applying to the respondent-Board. He further submitted that when the petitioner was granted one month's pension for the first block year of 2008-2011, then he did not apply but still along with the pension he got the aforesaid benefit and also so far as block year of 2016-2019 is concerned, he did apply because he became wiser and he was paid the aforesaid benefit. He further submitted that there is no justification with the respondent-Board to have not paid the aforesaid one month's pension to the petitioner in accordance with the aforesaid Policy (Annexure P-1).

3. Learned counsel for the petitioner also submitted that the aforesaid Policy (Annexure P-1) was never circulated amongst the pensioners and the petitioner, who is now 80 years of age does not even know that the aforesaid Policy was in vogue but certainly he got the benefit in the first block year along with the pension. He further submitted that thereafter, the petitioner had been availing of the same by applying to the respondent-Board and he has been getting the benefit but only for block year of 2012-2015 he has not been granted the benefit and he is entitled for the same.

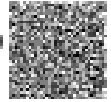
4. On the other hand, learned counsel appearing on behalf of the respondent-Board submitted that the Policy was pertaining to the employees of the Government, which is applicable to the respondent-Board and it is a beneficial Policy for those who do not avail the Leave Travel Concession (LTC) and in lieu of non-availing of the LTC, one month's salary is paid to the employees and similar benefit was extended to the pensioners as well by virtue of aforesaid Policy (Annexure P-1). She further submitted that in the present



case, the petitioner never submitted or availed of the benefit for the block year of 2012-2015 and thereafter, for the subsequent block years, he submitted and availed of the benefit and therefore, was granted the benefit. While referring to the written statement filed on behalf of the respondent-Board, she submitted that without availing of the benefit of one month's pension in lieu of Leave Travel Concession (LTC), the same could not have been granted by the respondent-Board as a matter of procedure and every employee applies for the same. She further submitted that the argument which has been raised by the learned counsel for the petitioner that the petitioner was not aware of the Policy as to whether he had to apply or not cannot be accepted because there can be no ignorance of law and even otherwise also, all the retired employees are well aware of all the Policies of the Government which goes to their benefit and there can be no presumption in favour of the present petitioner. She also submitted that rather as a matter of giving benefit to those who had applied for the block year of 2012-2015 within time but were not granted actual benefit, for them even the time was extended by the Government vide Annexure R-1 but since the petitioner did not even avail of the benefit, he is not entitled for the same.

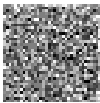
5. I have heard the learned counsels for the parties.

6. The issue involved in the present case is as to whether the petitioner, who is a pensioner was entitled for the grant of benefit of one month's pension in lieu of Leave Travel Concession (LTC) for the block year of 2012-2015 or not. So far as the prior block years and the subsequent block years are concerned, there is no dispute with regard to the same since admittedly the



petitioner has been paid the amount. As per the learned counsel for the petitioner for the first block year i.e. 2008-2011, the petitioner did not apply but he was granted the benefit. However, there is nothing on the record to show as to by what document the petitioner had applied nor the same has been supplied by the respondent-Board but the only averment made in the aforesaid written statement is that the petitioner be put to strict proof. In this way, there is nothing on the record to show as to whether the petitioner applied or did not apply. So far as the subsequent block year of 2016-2019 is concerned, the position is not in dispute. Admittedly, the petitioner did apply and availed of the benefit and he got the benefit and for the subsequent block years also, he availed of the benefit by applying and the benefit was paid to him.

7. The argument which has been raised by the learned counsel for the petitioner pertaining to the subject matter of the present dispute i.e. for the block year of 2012-2015 that since he could not apply, he has not been given the benefit of Leave Travel Concession (LTC) is concerned, it is not in dispute that the aforesaid benefit of grant of one month's pension is a beneficial measure which is similar to that of those employees who are in service. Even as per the learned counsel for the petitioner the benefit of one month's salary/pension is given when an employee or a pensioner does not avail of the Leave Travel Concession (LTC) in that block years and in case the aforesaid benefit of Leave Travel Concession (LTC) is not availed, then in lieu of the same, one month's salary/pension is paid. A perusal of the Policy (Annexure P-1) would show that the aforesaid benefit has been extended to the pensioners on the same lines as that of those employees who are in service. In other words,



the aforesaid benefit of one month’s pension as a lump sum assistance is available only when the benefit of Leave Travel Concession (LTC) is not availed. When any employee or a pensioner wishes to avail the lump sum benefit in lieu of Leave Travel Concession (LTC) being not availed, then for that purpose the employee or the pensioner has to apprise the concerned department that he has not availed of the benefit and he is entitled for the same in lieu of that in terms of the Policy. The argument which has been raised by the learned counsel for the petitioner that it has to be an automatic affair in view of the fact that there is nothing specific in the Policy is not sustainable. The genesis of the Scheme itself as is clear from Annexure P-1 is that the benefit of one month’s pension is a lump sum payment in lieu of non-availing of the Leave Travel Concession (LTC) and for that purpose, the employee or a pensioner has to apply by way of claiming the aforesaid benefit in lieu of that even though it is not specifically provided that a formal application has to be filed. This Court is of the considered view that there cannot be any automatic process of availing such a benefit.

8. Therefore, considering the aforesaid facts and circumstances of the present case, this Court is of the considered view that the present writ petition is devoid of any merit and the same is hereby dismissed.

06.11.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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