



CWP-29364-2024 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

117

CWP-29364-2024 (O&M)  
Date of Decision :29.10.2024

Boota Singh

...Petitioner

Versus

State of Punjab and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Baltej Singh Sidhu, Senior Advocate with  
Mr. Himmat Singh Sidhu Advocate &  
Mr. Kanwalpreet Singh Randhawa, Advocate for the petitioner.

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**Harsimran Singh Sethi, J. (Oral)**

In the present petition, grievance being raised by the petitioner is that the petitioner resigned from service but he has not been paid any dues for the service which he had rendered with the respondent-Institute. The said grievance has been raised by the petitioner before the Educational Tribunal, Punjab and the Educational Tribunal, Punjab vide detailed order dated 02.05.2024 (Annexure P/8) dismissed the said claim of the petitioner, which order of the Tribunal is under challenge in the present petition.

Learned Senior counsel appearing for the petitioner submits that the petitioner had served the institution starting from the year 1989 and he had only resigned in November, 2010 and hence, the petitioner is entitled for the grant of various service benefits such as leave encashment and gratuity, which benefits have been declined not only by the respondent-Institution but

**CWP-29364-2024 (O&M) -2-**

by the Educational Tribunal, Punjab by passing impugned order dated 02.05.2024 (Annexure P/8) hence, the respondents be directed to grant the petitioner benefit of gratuity as well as leave encashment in respect of the services rendered by the petitioner in the department for the said period.

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

From the facts, it is clear that the petitioner left the institution in the year 2005 when his family migrated to Canada. The petitioner also migrated to Canada and started living there. Though, the petitioner was residing in Canada but in order to keep his appointment alive, he was filing application for the grant of leave. Though, on certain given point of time, leave without pay was also granted but petitioner never had any intention to come back and serve the institution and ultimately the petitioner submitted his resignation from service on 25.11.2010, which was accepted by the respondent-College. After resignation, the appointment of the petitioner with the respondent-College came to an end.

The question which arises is whether the petitioner is entitled to claim the benefit of leave encashment and the other service benefits for the period the petitioner worked with the respondent-institution especially, when he resigned from the post.

The present petition has been filed while the petitioner was living in Canada through power of attorney, which shows that the petitioner is only interested in getting money from the respondent-College rather than serving the institution, which he joined to teach the students.

The question whether the petitioner will be entitled for the grant



**CWP-29364-2024 (O&M) -3-**

of benefit of leave encashment after submitting his resignation is to be decided on the basis of rules governing the service. The rules which govern the services of the State of Punjab clearly states that upon resignation, the previous service will stand forfeited for all intent and purposes and the employee will not be entitled for any benefit. The said rule will also be applicable upon the petitioner.

Learned Senior counsel for the petitioner has not been able to rebut that the said rule is also applicable upon the aided institution where the petitioner was serving. No rule that even after the previous service is washed out upon resignation, employee will be entitled for the benefit of leave encashment has been brought to the notice of this Court by the petitioner. In the absence of any rule that even after resignation, the employee will be entitled for the benefit of service which he had rendered prior to resignation, claim of the petitioner cannot be accepted.

Even otherwise, from the facts, which have been narrated hereinbefore, the petitioner migrated to Canada about 18 years ago and he never came back to serve the institution.

As per the settled principle of law settled by the Hon'ble Supreme Court of India in **SLP (C) No.24220-24221-2007 titled as Vijay S. Sathaye vs. Indian Airlines Ltd. and others decided on 06.09.2013** as well as in **Civil Appeal No.4588-2014 titled as, State of M.P and others vs. B.S. Bhadoriya, decided on 16.04.2014,** a long absence from duty in fact amounts to abandonment of job.

In the case in hand, the petitioner never came back to join the institution after he left the same in the year 2005 but rather than treating the



**CWP-29364-2024 (O&M) -4-**

petitioner to have abandoned the job, the management committee of the respondent-institution accepted the resignation given by the petitioner so as to end the relationship peacefully but the petitioner rather than settling the issue started troubling the respondent-institution by filing petitions before this Court as well as before the Educational Tribunal, Punjab to claim the benefit while residing in Canada, hence, keeping in view the same, the petitioner is not entitled for the grant of any service benefit after resignation.

Learned Senior counsel for the petitioner has not been able to point out any illegality in the order passed by the Educational Tribunal, Punjab by which, the benefit has been declined to the petitioner. In the absence of any illegality being pointed out by the learned Senior counsel for the petitioner, no ground for interference by this Court is made out and present petition is accordingly dismissed.

As the petitioner, who is residing in Canada is exploring the luxury of litigating with the respondent-Institution, the same needs to be stopped. Hence, the present petition is dismissed with cost of Rs.50,000/- to be deposited by the petitioner with the Indian High Commission in Canada to be transferred to the Legal Aid Service Authority of the Punjab and Haryana High Court so that the legal services to the poor litigants, who cannot avail the services of the counsel, can be provided the facility.

This order be sent to the Indian High Commission in Canada for implementing the same and in case, the petitioner fails to comply with the depositing of costs, authorities concerned will have all the jurisdiction under law to execute the order. If all the efforts to recover the cost from the petitioner fails, action be taken to recover the cost from the power of



**CWP-29364-2024 (O&M) -5-**

attorney with liberty to him to recover the cost from the petitioner. The address of the petitioner in Canada as given in the petition is as under:-126, Clansman Trail, Mississauga, Ontario L4Z3H2-Canada.

Civil miscellaneous application pending, if any is also disposed of.

**October 29, 2024**

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**(HARSIMRAN SINGH SETHI)**

**JUDGE**

*Whether speaking/reasoned : Yes/No*

*Whether reportable : Yes/No*