

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

CWP-3221-2025 (O&M)
Date of Decision : 05-02-2025

.....Petitioner

**PRESIDING OFFICER INDUSTRIAL TRIBUNAL AND LABOUR
COURT UNION TERRITORY CHANDIGARH AND OTHERS
.....Respondent**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Hardik Ahluwalia, Legal Aid Counsel
For the petitioner.

None for the respondents.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that the leave encashment to which the petitioner is entitled to the petitioner has not been calculated in the manner required, hence, it is the prayer of the petitioner that the award of the Industrial Tribunal, Union Territory, Chandigarh dated 24.07.2024 (Annexure P-4) may kindly be set aside.

2. I have heard learned counsel for the petitioner and have gone through the records of the present case with his able assistance.

3. The petitioner was working with the private firm and the leave encashment is being claimed keeping in view the total length of service rendered by the petitioner to the respondent-firm. The Tribunal while passing the impugned order dated 24.07.2024 has recorded a finding after placing reliance upon the relief admissible under the Factories Act, 1948 as

well as under the Punjab Shops and Commercial Shop Act, 1958. As per the said provisions which are applicable upon the petitioner, if an employee does not avail his available leaves in one calendar year, then said leaves will be forwarded to the next year, subject to the proviso which states that the maximum number of leaves than can b carried forward in succeeding yar would be 30 days.

4. In the present case, the benefit of available leave is the right of the petitioner and same has been extended to him. Nothing has been shown to this Court as to under which provision of law, the petitioner is claiming the benefit of encashment of total number of leaves he has accumulated while doing his service which according to him is 720 days especially when, as per the Rules cited by the Tribunal, the leave does not remain alive after the said certain extent as pr the applicable provisions and the same stands extinguished.

5. Learned counsel for the petitioner has not been able to show that the said finding is perverse in any manner.

6. On being asked to provide under what Rules, the encashment of the whole number of unutilized leave was being claimed, learned counsel for the petitioner has not been able to shows that he was governed by any such Rule which could substantiate the petitioner's claim that he was entitled to encash total leaves in case, the same was not utilized during whole of the service career with the respondents.

7. In the absence of any Rule for the encashment of the total leaves not availed, the claim raised in the present petition that the petitioner has not been allowed his entitled leave encashment, cannot be accepted.

8. No ground is made out for any interference in the facts and circumstances of the present case.
9. Present petition is dismissed.
10. Pending application, if any, also stands disposed of.

05-02-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO