



CWP-10211-2016 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-10211-2016 (O&M)
Date of Decision :04.12.2025

Bhupinder Singh

... Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Rohit Seth, Advocate for the petitioner.

Ms. Puneeta Sethi, Sr. Panel Counsel with
Mr. Y.S. Thakur, Advocate for respondent-UOI.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, challenge is to the impugned order dated 09.09.2015 (Annexure P/1) passed by the Central Administrative Tribunal, Chandigarh Bench (hereinafter referred to as 'the Tribunal') by which, the claim of the petitioner alleging wrongful removal from service, was rejected by the Tribunal.

2. Learned Senior counsel appearing for the petitioner argues that the petitioner had rendered 19 years of service with the respondents upto the date he was removed from service. However, in view of the punishment of removal imposed upon him, he has not been even able to receive the benefit of gratuity otherwise admissible to him therefore, it is prayed that the said order be modified to the extent that the petitioner can atleast get the benefit

of gratuity admissible to him.

3. Learned counsel for the petitioner submits that the request of the petitioner for fresh appointment again on said post was also not considered by the respondents and, hence, the respondents be directed to consider his prayer for fresh appointment.

4. Per contra, learned counsel appearing for the respondent-UOI submits that although, the actual service rendered by the petitioner was 14 years but, he sought ex-India leave, which leave was never sanctioned by the authorities concerned and he went abroad without permission and thereafter continued applying for extension of ex-India leave, which application was not accepted and he remained absent from performing duty assigned to him for sufficiently long time. Learned counsel for the respondent-UOI further submits that keeping in view the conduct of the employee, there seems to be no occasion of considering the employee for a fresh appointment keeping in view the nature of work to be executed qua the post along with the fact that work is already being executed by the employee, who was employed thereafter.

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

6. It may be noticed that the petitioner was punished on account of his own conduct. The petitioner went abroad even without getting the ex-India leave sanctioned from authorities concerned. Thereafter, he started applying for extension of said leave, which request was never accepted by the authorities. Yet, he remained absent from duty for sufficiently long duration, which led to passing of the order of removing him from service.

An employee who remains absent from duty without any valid cause and

leaves the Country without getting the ex-India leave sanctioned in order to find greener pastures in foreign country cannot subsequently claim that his 14 years service should be given credit. An employee, who chooses to stop performing his/her duties and goes abroad cannot insist upon the grant of gratuity for the period he served, especially when, misconduct of wilful absence from duty stands duly proved and has been duly acted upon.

7. Further, as per the Payment of Gratuity Act, 1972 in case, the conduct of an employee has lead to removal from service, the benefit of gratuity is not permissible. Hence, non-grant of benefit of gratuity to the petitioner by the respondents is perfectly within the jurisdiction and parameters laid down in the Payment of Gratuity Act, 1972.

8. Learned counsel for the petitioner has also argued that the petitioner was neither paid subsistence allowance nor he was put formally out of duty.

9. It may be noticed that once the petitioner went abroad without any valid justification or sanctioned ex-India leave, merely that the petitioner at a later point decides to come back, the same does not mean that he is exonerated of his misdeeds and he be thus allowed to join the duty especially when, even prior to going abroad, the petitioner was only working for a five hours a day service and was not a regular employee.

10. Further, it may be noticed that the notice of motion in the present case was only issued to explore whether the petitioner can be considered for fresh appointment or not.

11. A period of 09 years has since elapsed and as per the respondents, they do not have any vacancy to accommodate the petitioner.

That being so, no ground for interference at the hands of this Court is made

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out and the present writ petition is accordingly dismissed.

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

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

December 04, 2025
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Whether speaking/reasoned : Yes
Whether reportable : No