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

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**CWP-17257-2017**
**Date of Decision: 13.01.2026**

Bhalla Singh

...Petitioner

Versus

State of Punjab and Others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Surinder Garg, Advocate for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

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**JAGMOHAN BANSAL, J. (ORAL)**

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 13.02.2017 whereby respondent has reduced his entitlement to leave encashment from Rs.5,77,280/- to Rs.4,49,176/-.

2. The petitioner belongs to Punjab Police. He retired as Inspector on 30.04.2016. His original date of superannuation was 30.04.2014. He was granted extension of two years. The respondent vide order dated 26.05.2016 sanctioned him a sum of Rs.5,77,280/- towards leave encashment. The treasury raised objection in view of letter dated 01.07.2016 of Finance Department. The respondent recalculated leave encashment and reduced amount of leave encashment from Rs.5,77,280/- to Rs.4,49,176/-.

3. Learned counsel representing the petitioner submits that as per Punjab Civil Services (Second Amendment) Rules, 2015 (for short '2015 Rules'), if an employee during extended period of service avails earned leave more than his entitlement, excess leaves availed by him are

liable to be deducted from unutilized leaves to his credit on the date of his superannuation. The respondent issued clarification dated 25.05.2016 whereby it was clarified that excess leaves availed during extended period shall be deducted from 300 days leave which can be encashed at the time of superannuation. The clarification was issued after his superannuation.

4. *Per contra*, learned State counsel submits that clarification is always retrospective in nature. The Rule clearly provides that excess leave has to be deducted from unutilized leaves to the credit of employee. At the time of superannuation of any employee, it is undisputed that maximum earned leaves can be 300 days. The petitioner was having 450 days unutilized earned leave, however, was entitled to encash leaves up to 300 days.

5. Heard the arguments and perused the record

6. It is undisputed that an employee, as per Civil Services Rules, is entitled to encash 300 days leaves irrespective of number of unutilized leaves to his credit. In the ordinary course, an employee is liable to retire at the age of 58 years. The State Government is empowered to grant extension of two years. As per amended Rule 8.21, a Government employee is entitled to earned leaves during extended period. If he avails earned leaves more than his entitlement during the extended period, the excess leaves are required to be deducted from unutilized leaves to his credit on the date of his superannuation. Amended Rule 8.21 (b) of Punjab Civil Services Rules, Volume I, Part-I is reproduced as below:

> *"3. In the said rules, in rule 8.21,-*
>
> *(i) for sub-rule (b), the following sub-rule shall be*

*substituted, namely:-*

*"(b) In case of a Government employee, who is granted extension in Service, on the completion of his extended period of Service, shall be entitled to draw cash equivalent to un-utilized earned leave at his credit on the date of his superannuation:*

*Provided that a Government employee, who continues in Service after his superannuation, shall earn leave at the rate applicable to him on the date of his superannuation:*

*Provided further that if a Government employee, avails earned leave in excess of leave earned by him during the period of his extension, in that case the excess leave availed by him, shall be deducted from the un-utilized leave at his credit on the date of his superannuation."; and*

*(iii) sub-rule (d), except the Notes given thereunder, shall be omitted."*

7. From the perusal of second proviso to aforesaid Rule, it is evident that excess leaves availed during extended period has to be deducted from unutilized leaves to the credit of Government employee. The petitioner was having 450 unutilized leaves to his credit on the date of his superannuation. He was entitled to encash 300 leaves. 150 days' leave was bound to lapse. The respondent by way of clarification dated 25.05.2016 has formed an opinion that excess leaves should be deducted from 300 days which a Government employee can encash at the time of his superannuation.

The clarification was issued on 25.05.2016 and petitioner retired on 30.04.2016. Ordinarily, clarification is retrospective in nature. The clarification issued by respondent needs to be examined in the light of mandate of amended Rule 8.21. It is settled proposition of law that clarification cannot be contrary to Rule. The petitioner has not pressed challenge to clarification dated 25.05.2016, thus, no observation is made with respect to validity of the clarification.

8. The second proviso to Clause (b) of Rule 8.21 provides that deduction shall be made from unutilized leaves to the credit of Government employee on the date of his superannuation. In the proviso expression “unutilized leave” has been used. In the proviso expression “leave which can be encashed” has not been used. In the absence of specific expression that deduction shall be made from the leaves which can be encashed, it cannot be concluded that unutilized leave means only leave which can be encashed. The petitioner was having 450 unutilized leaves, thus, excess leave of 60 days was required to be deducted from 450 days instead of 300 days. The petitioner was entitled to encashment of 300 days because he availed 60 excess leaves and at the same time was having 450 earned leaves to his credit.

9. In the wake of above discussion and findings, the impugned order dated 13.02.2017 is hereby set aside. The petition is ***allowed***. The respondent is directed to release differential amount i.e. Rs.1,28,104/- within two months from today failing which it would be liable to pay interest @ 7.5% per annum from the expiry of said period.

**(JAGMOHAN BANSAL)**
**JUDGE**

**13.01.2026**
*Prince Chawla*

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| Whether Speaking/reasoned | Yes/No |
| Whether Reportable | Yes/No |