
(2018) 07 CHH CK 0226
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 2610 Of 2013

Ishwar Prasad Dewangan

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision : 19-07-2018

Acts Referred:

Citation : (2018) 07 CHH CK 0226

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : Anil Singh Rajput, Ashutosh Pandey

Final Decision : Disposed Of

Judgement

P. Sam Koshy, J

1. The present is a second round of litigation by a retired Principal of Government School. The action of the respondent shows the pathetic condition of the affairs of the State Govt. wherein the retired Principal of a High School is being denied his rightful claim of leave encashment.

2. Facts of the case is that, the petitioner was retired from service as Principal from Govt. High School Laripani, District Raigarh w.e.f. 31.01.2013. Subsequent to his retirement, while granting the retiral dues to the petitioner, the respondents paid leave encashment of the petitioner for only 150 days. According to the petitioner, he had sufficient leave in his credit and was entitled for maximum leave encashment permissible i.e. of 240 days. In this regard, the petitioner had on an earlier occasion filed a writ petition WPS No.1014 of 2013 which stood disposed of on 12.04.2013 whereby this court had directed the matter of the petitioner to be placed before the High Powered Committee constituted by the State Govt. dealing with retiral dues of retired employees.

3. Pursuant to disposal of the writ petition, the matter was placed before the Committee consisting of five senior level officers of the State Govt. The said

committee while disposing of the claim of the petitioner held as under :

"4, समिति ने विभागीय अधिकारियों से याचिकाकर्ता के मांग के संबंध में वस्तुस्थिति स्पष्ट करने के लिए कहा गया। विभागीय अधिकारी ने समिति को अवगत कराया कि याचिकाकर्ता द्वारा वित्त विभाग के ज्ञाप क्रमांक 445/338/नि-2/चार दिनांक 28.04.1992 के आधार पर अनुसूचित क्षेत्रों में पदस्थ कर्मचारियों को वर्ष में 10 दिन का अतिरिक्त अर्जित अवकाश जाता है जिसके संचय की अधिकतम सीमा 240 दिवस है इसमें उक्त अवकाश को सम्मिलित कर नगदीकरण के आदेश है। वित्त विभाग द्वारा उक्त परिपत्र पुनरीक्षित करते हुए अनुसूचित क्षेत्रों में पदस्थ कर्मचारियों को यह सुविधा समाप्त कर दी गई है। 5. समिति ने याचिका का अवलोकन किया व विभाग द्वारा प्रस्तुत अभिलेखों का अवलोकन किया गया व पाया कि याचिकाकर्ता द्वारा वित्त विभाग द्वारा जारी वर्ष 1992 का ज्ञाप संदर्भ के रूप में लिया गया जबकि वित्त विभाग द्वारा इस ज्ञाप में संशोधन कर दिया गया है जिसके अनुसार अनुसूचित क्षेत्रों में पदस्थ कर्मचारियों के लिए यह सुविधा शून्य घोषित कर दी गई है। इस ज्ञाप के अनुसार याचिकाकर्ता को मांग की गई नगदीकरण की पात्रता नहीं बनती है। अतः याचिकाकर्ता की 82 दिनों की नगदीकरण की मांग खारिज की जाती है।"

4. It is relevant at this juncture to refer to a document which has been provided to the petitioner by the respondents-State themselves while granting him the leave encashment of 158 days. The operative portion of which is again reproduced herein which would be relevant for the adjudication of the present writ petition more effectively :

3

दिनांक 31.07.78 से 09.03.1987 तक दिवस कुल सेवा अवधि

8 वर्ष 7 माह 9 दिन

4

दिनांक 10.03.87 से 31.01.13 तक कुल सेवा अवधि

25 वर्ष 10 माह 21 दिवस

5

कालम 3 में अंकित अवधि हेतु समर्पण अवकाश की पात्रता (एक वर्ष में 15 दिन की दर) अर्जन अनुसार वास्तविक पात्रता

38 दिन

6

कालम 4 में अंकित अवधि हेतु समर्पण अवकाश की पात्रता (एक वर्ष में 7 दिन की दर से) अर्जन अनुसार वास्तविक पात्रता

157 दिन

7

कुल अर्जित अवकाश समर्पण की पात्रता

195 दिन

8

घटाईये सेवा के दौरान लिया गया अवकाश

37 दिन

9

सेवानिवृत्ति पर समर्पण की पात्रता

158 दिन

5. The contention of the petitioner is that he had filed first petition on the ground that the respondent authorities have not properly calculated the leave which the petitioner would be entitled for on the basis of information which they have furnished as per calculation sheet provided by the Assistant Commissioner along with order dated 21.02.2013. According to the petitioner, if as per the details as provided by the respondents are taken note of, he would be entitled for leave of 120 days as far as serial No.5 is concerned whereas according to the respondents he is entitled for 38 days. Likewise, so far as the serial No.6 is concerned, again the contention of the petitioner is that as per calculation to be made according to State Govt. rules itself, the petitioner would have got 175 days in his credit, however the said document shows that there were only 157 days. Thus, adding 120 with 175, the total days in his credit would have been 295 days instead of 195 days as has been recorded by the State Govt.. According to petitioner, this was his only grievance and for which it was referred to the Committee and the Committee has not considered any of these aspects and have straightway went and decided the matter on entirely different and extraneous consideration and reasons.

6. The State counsel today is not in a position to justify the action of the Committee except for the fact that the findings does not seem to be erroneous based on the reasons assigned therein.

7. This court is surprised with the decision and the manner in which the Committee consisting of five senior level officers of the State has decided the claim of the petitioner. The minimum that was required from these higher level officials was to first understand the actual grievance of the petitioner and then try to find out the reasons as to why the petitioner has not been paid leave encashment as prayed for and should have tried to redress the grievance, rather than finding out ways and means to reject the claim application.

8. Given the facts and circumstances of the case, this court does not intend to keep this petition pending any further. Rather, ends of justice would meet if this petition is disposed of with a direction that it shall be the duty of the respondent No.1 herein to consider the case of the petitioner in the light of the letter issued by the Assistant Commissioner on 21.02.2013 so far as calculation of leave in the credit of petitioner is concerned and thereafter pass a speaking order and in case if the authorities find that the petitioner is entitled for leave encashment of more days than what has been provided to him, the same shall be released to him

forthwith along with interest @ 10 percent per annum from the date of retirement till the actual payment is made.

9. It is ordered accordingly.

10. It is directed that the respondent No.1 shall scrutinize the claim of the petitioner as expeditiously as possible within outer limit of 45 days from the date of presentation of copy of this order before the respondent No.1.

11. It shall be the responsibility of the petitioner to bring the order of this court to the notice of respondent No.1.