

(2016) 03 P&H CK 0282
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 23954 of 2013

Kamal Bhardwaj and others	Vs	APPELLANT
State of Punjab and others		RESPONDENT

Date of Decision : 11-03-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 3 PLR 59

Hon'ble Judges : Rajiv Narain Raina, J.

Bench : Single Bench

Advocate : Mr. P.K. Goklaney, Advocate, for the Appellant; Mr. Rajan Bansal, Advocate and Mr. Nikhil K. Chopra, DAG, Punjab, for the Respondent

Final Decision : Allowed

Judgement

Rajiv Narain Raina, J. (Oral) - This order will dispose of above cases bearing CWP Nos.23954 of 2013; 24890 of 2013 and 7780 of 2014, as common questions of law and fact are involved in them, which can conveniently be decided by a common order.

2. The only issue involved in the present set of cases is regarding entitlement to the monetary benefit of leave encashment from a privately managed Government aided school run by the respondent-Management.

3. It is the settled position in law that leave encashment liability is on the Management and is not an obligation to be shouldered by the State, which provides the grant-in-aid for certain purposes and concessions under the scheme. The legal position is expressed in the Division Bench judgment delivered in LPA No.519 of 2011 titled "Anglo Sanskrit High School Khanna Trust and Management Society (Regd.), Khanna and another v. State of Punjab and others" decided on 5th April, 2011 which covers the present cases.

4. As a result, all the writ petitions are allowed as against respondents No.29 and 30 in CWP No.23954 of 2013; respondents No.36 and 37 in CWP No.24890 of

2013; respondent No.12 in CWP No.24890 of 2013 and respondent No.11 in CWP No.7780 of 2014 corresponding to the petitioners therein, who retired from services of a few of the Schools arrayed as respondents. The remaining private respondents [which are total 28 in number] have been served with the summons, but have chosen not to appear to contest the proceedings. They are accordingly proceeded against ex parte. No further effort is required to be made to bring them to Court. Besides, the issue involved is no longer res integra.

5. Accordingly, all the writ petitions are allowed and a writ of mandamus is issued to the respective respondent-Managements to disburse the amount of leave encashment to each of their employees, the petitioners; within two months from the date of receipt of certified copy of this order failing which the amount will earn interest at the rate of 6% per annum from the date the default was committed by withholding money towards leave encashment.

6. The respective Managements shall be at liberty to seek reimbursement of monetary value of leave encashment not being permissible under the grant-in-aid scheme, keeping in view the stand of the State in the present set of cases in consonance with para.3 of the written statement filed by the State.