
(2012) 02 JH CK 0128
In the Jharkhand High Court
Case No : WP (S) No. 5061 of 2003

Md. Sarfaraj Ahmad

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-02-2012

Acts Referred:

Constitution of India, 1950 — Article 226
Jharkhand Service Code, 2001 — Rule 236

Citation : (2012) 02 JH CK 0128

Hon'ble Judges : P.P. Bhatt, J

Bench : Single Bench

Judgement

Hon"ble Mr Justice P.P. Bhatt

1. The petitioner by way of present petition filed under Article 226 of the Constitution of India has prayed for quashing and set aside the order dated 12.6.2001 issued by the respondent No. 4, whereby, the period between 13.12.2000 to 2.6.2001 (173 days) treated as extraordinary leave (without pay). It is further prayed for quashing the order issued by respondent No. 3 dated 19.6.2003 communicated to the petitioner vide letter dated 24.7.2003 regarding rejection of appeal preferred by the petitioner. It has also been prayed that the respondent authorities may be directed for grant Earned Leave and commuted leave with full pay as the same being due to the petitioner and admissible under the provisions of rules.

2. Learned counsel for the petitioner invited attention of this Court to Rule 236 of the Jharkhand Service Code, 2001 and submitted that extraordinary leave can be granted to the Govt. servant when no other leave is admissible under the rules. In view of the aforesaid Rule, the extraordinary leave can be granted in special circumstances when no other leave is admissible under these rules.

3. From perusal of the record, it transpires that the petitioner is having 207days of earned leave in his leave account. According to the petitioner, he made request to the authority concerned for grant of his earned leave as he was

compelled to remain on leave on account of his illness and in support of this contention, the petitioner submitted various medical certificates and treatment papers along with petition to show that he was suffering from Hepatitis, but the said leave was not granted to him.

4. Learned counsel for the State submitted that the petitioner did not apply for earned leave and therefore, the department has no option to grant extraordinary leave in favour of the petitioner. Learned counsel for the State referred to the representation made by the petitioner as well as the papers annexed with it to show that no such request was made by the petitioner.

5. Considering the aforesaid rival submissions of the parties and from perusal of the record, it transpires that the petitioner is having 207 days of earned leave in his leave account but the respondent authorities did not consider this fact, which is available with the service record of the petitioner.

6. The Rule 236 of the Jharkhand Service Code, 2001, which provides as under;

236: Extraordinary leave may be granted to a Government servant in special circumstances:-

(i) When no other leave is admissible under these rules;

(ii) When, other leave being admissible, the Government servant concerned applies in writing for the grant of extraordinary leave.

7. In the light of above rules, the extraordinary leave can be granted to a Government Servant in special circumstances when no other leave is admissible under these rules. It appears that the petitioner is having 207 days of earned leave in his leave account and therefore, the respondent authority can grant earned leave in favour of the petitioner if request is made by the petitioner in this regard.

8. Under the circumstances, the petitioner is directed to file a representation before the respondent authority concerned justifying his claim for grant of earned leave within fifteen days from today and on submission of the said representation, the respondent authority concerned shall consider and decide the same in accordance with Rules within one month thereafter.

9. With the above observation and direction, this writ petition stands disposed of.