
(2020) 06 P&H CK 0010
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 443 Of 1996

Satya Pal Kaushik

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 09-06-2020

Acts Referred:

Haryana Civil Services Rules, Volume-I, Part-II — Rule 19.1, 19.1(b)
Study Leave Rules, 1963 — Section 6

Citation : (2020) 06 P&H CK 0010

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Advocate : Vikas Bali

Final Decision : Partly Allowed

Judgement

Ritu Bahri, J

Petitioner is seeking quashing of the order/letter dated 26.10.1993 (Annexure P-6) and further seeking direction to the respondents to grant him study leave for the period from 01.04.1989 to 30.06.1991 as admissible under the Study Leave Rules, 1963 and make payment of salary equivalent to 1/2 (one-half) of his pay/salary.

Petitioner joined PWD (B & R Branch), Haryana, after having secured Diploma in Civil Engineering. Thereafter, he applied for Bachelor of Engineering Course in the year 1988. Vide letter dated 17.08.1988 (Annexure P-1), addressed by respondent No.2 to the Principal, Regional Engineering College, Kurukshetra, he conveyed that the State Government had sponsored the name of petitioner to the said college for admission to three years Special Bachelor of Engineering Course. Vide letter dated 18.09.1989 (Annexure P-2), petitioner was granted study leave for 1042 days in three different periods, which are as under:-

Sr. No. Period

Nature of Leave

1.

23.08.1988 to 01.12.1988

101

days

Earned

Leave

2.

02.12.1988 to 31.03.1989

120

days

1/2 pay

leave

3.

01.04.1989 to 30.06.1991

821 days Extraordinary leave

Learned counsel for the petitioner has argued that as per Rule 19.1 of the Haryana Civil Services Rules, Volume-I, Part-II, if a Government employee seeks to improve his educational qualification while being in service, he is entitled to receive salary equivalent to 1/2 of the salary during the said period. Vide letter dated 26.07.1993 and 26.10.1993 (Annexures P-5 and P-6), the State Government took a decision to allow Study Leave to the employees i.e. Junior Engineers seeking admission in Regional Engineering College, Kurukshetra to acquire higher qualification of degree of Bachelor of Engineering Course as sponsored by the State Government. Pursuant to these instructions, petitioner made a representation dated 02.04.1994 (Annexure P-7) for grant of Study Leave.

Petitioner is challenging the letter dated 26.10.1993 (Annexure P-

6) on the ground that vide this letter, Study Leave has been granted to the Junior Engineers for the remaining period after 26.07.1993. Prior to 26.07.1993, no benefit has been granted. Learned counsel for the petitioner contends that as per Rule 19.1 (b) of the aforesaid Rules, petitioner has a right to be granted Study Leave from 01.04.1989 to 10.06.1991. Study Leave cannot be restricted to a period after 26.07.1993. In support of his arguments, learned counsel for the petitioner has referred to the judgment passed by this Court in Sukhbir Kaur and

others vs. State of Punjab and others, CWP No.2121 of 1995 (decided on 29.05.2003), whereby Study Leave had been granted to ANMs for doing "A" Grade course. In this case, earlier claim of the petitioners (therein) for Study Leave had been rejected vide order dated 22.03.1993. However, during the pendency of writ petitioner, State had granted the above said benefit to the petitioners. Keeping in view that the petitioners had undergone the Study Leave, they were held entitled to financial benefit for the said period. Thereafter, the Division Bench of this Court in Kuldeep Kaur and others vs. State of Punjab and others, CWP No.4239 of 2006 (decided on 24.09.2007) was also considering a case, where ANMs had pursued "A" Grade Nursing Course. In that case, the petitioners were claiming parity with Sukhbir Kaur's case as they had also done "A" Grade course. The writ petition was allowed keeping in view that their claim had been declined in the year 1993, but the State Government could not deny the monetary benefit. They had to be given the monetary benefit at par with Sukhbir Kaur's case. A direction was given to the respondents to make payment to the petitioners (therein) within one month.

In the facts of the present case, as per instructions dated 26.07.1993 (Annexure P-5), the Finance Department has taken a decision to grant Study Leave to the Junior Engineers, who are to be deputed to Regional Engineering College, Kurukshetra. In the present case, petitioner had already completed his Bachelor of Engineering when decision dated 26.07.1993 (Annexure P-5) was taken.

Stand of the respondents, in their written statement, is that vide letter dated 14.02.1985 (Annexure R-1) and letter dated 05.07.1985 (Annexure R-II), a criteria (terms and conditions) for sponsoring names of Diploma Holder Government Employees for three years B.E. Degree course from Regional Engineering College, Kurukshetra, had been laid down. It was made clear that the candidate, so sponsored, would be allowed leave of kind due. After accepting the terms and conditions, petitioner is now estopped to seek payment of half salary from the department. Subsequently, the Finance Department, vide letter dated 26.07.1993 (Annexure P-5), allowed study leave to the Junior Engineers doing B.E. Degree course from Regional Engineering College, Kurukshetra. This letter was further clarified vide letter dated 26.10.1993 (Annexure P-6) that the remaining period of those Engineers, who have proceeded for the said course, will be treated as Study Leave. Hence, prior to 26.07.1993, Junior Engineers were entitled to the leave of kind duty. Learned State counsel argues that letter date 26.10.1993 (Annexure P-6) is not liable to be quashed as the benefit of leave is to be given prospectively vide letter dated 26.07.1993 (Annexure P-5).

Short question for consideration in the present petition is, whether the benefit of Study Leave is to be governed by Rule 19.1 (b) of the of Haryana Civil Services Rules, Volume-I, Part-II. The relevant extract of this Rule is reproduced as under:-

"Rule 19.1 xxx xxx xxx

(b) For courses of study in India no study allowance shall be paid. The leave salary payable during study leave in India shall be equal to the pay (without allowances other than dearness allowance) that the employee drew while on duty with Government immediately before proceeding on such leave. The amount, if any, received by him during the period of study leave as scholarship or stipend or remuneration in respect of any part-time employment shall be adjusted against the leave salary subject to the condition that the leave salary shall not be reduced to an amount less than that payable as leave salary during half pay leave."

A perusal of the Study Leave Rules, 1963 (Annexure P-3) shows that as per Rule 6 thereof (combination of Study Leave with leave of other kinds), Study Leave cannot exceed more than 28 months from the regular duties of the Government employee.

In the present case, petitioner had gone on leave for more than 1000 days. Hence, his leave cannot be governed by the aforesaid rules. As per these rules, petitioner can be granted only study leave for 195 days and under Rule 9.1 (b) of the of Haryana Civil Services Rules, Volume-I, Part-II, he has to be paid 1/2 (one-half) salary for the above said period. The petitioner has already availed half pay leave for a period of 120 days vide order dated 18.09.1989 (Annexure P-2). For the remaining 75 days, he has not been paid 1/2 (one-half) salary and his case, to this extent, has to be allowed.

In view of the above discussion, this petition is partly allowed and a direction is given to the respondents to give/release 1/2 (one-half) salary to the petitioner for 75 days along with interest at the rate of 6% per annum.