

(2013) 06 SHI CK 0145
In the High Court Of Himachal Pradesh
Case No : CWP No. 2380 of 2013-H

Waryam Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 21-06-2013

Acts Referred:

Citation : (2013) 06 SHI CK 0145

Hon'ble Judges : Surinder Singh, J; Dharam Chand Chaudhary, J

Bench : Division Bench

Advocate : Vikrant Thakur, for the Appellant; Sandeep Sharma, Assistant Solicitor General of India, for the Respondent

Final Decision : Disposed Off

Judgement

Surinder Singh, J.—By means of the present petition, the petitioner seeks mainly the following relief:

- i) That a writ of certiorari may kindly be issued to quash the order dated 10.12.2012 i.e. Annexure P-1.
- ii) That a writ of mandamus may kindly be issued to regularize the 18 days EOL of the petitioner service by adjusting the leave available to the credit of the petitioner.

The petitioner was alleged to be on unauthorized absence for 18 days. But, however, keeping in view his past record, the respondents did not proceed against him under CCS (CCA) Rules, 1965 rather granted extraordinary leave without medical certificate. The contention of the petitioner is that he has 261 days earned leave in his account. Instead of extraordinary leave for the said period this 18 days leave should have been deducted from the earned leave.

2. It is well settled that without taking recourse to any disciplinary action, in case, the leave period is regularized for all purposes, except for pay, in such a situation only, in case there is a leave available in the credit of the employee

concerned, the same shall be adjusted to the extent of leave available. [Please see CWP No. 2080 of 2012, titled Sunit Pathania versus State of Himachal Pradesh & Another, decided on 26.4.2012.]

3. Keeping in view the above legal and factual position, we have no reason to take different view and dispose of this petition with the direction that the 3rd respondent to see whether the petitioner has leave available to his credit for covering up the period of absence, which has since been regularized as extraordinary leave and if so the action in that regard shall be taken for getting the same adjusted against the earned leave available, ignoring the orders already passed, within a period of "two" months from the date of production of the copy of this judgment along with a copy of the writ petition before the 3rd respondent. With these directions, the writ petition stands finally disposed of, so also the pending application(s), if any.