

204 (2)
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 13702 of 2014 (O/M)
Date of decision : 5.10.2016

Jaipal Phogat and another Petitioner (s)

Versus

State of Haryana and others Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Harish Nain, Advocate, for the petitioners.

Mr. Naveen Sheoran, Deputy A.G. Haryana.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

The unfortunate controversy arising in the present writ petition is the method, in which the respondents calculated the un-utilized earned leave of the petitioners, namely, Jaipal Phogat (retired Mechanic) and Jaibhagwan (retired Mechanic). The petitioners have sought the quashing of the impugned orders 30.4.2014 (Annexures-P-8 and P-9) and claim that they are entitled to leave encashment of 300 days un-utilized earned leave.

The learned counsel for the petitioners claims that the petitioner No. 1 is entitled to 300 days leave encashment and the petitioner No. 2 is entitled to 268 days leave encashment, whereas the petitioner No. 1 has been granted the benefit of leave encashment of 257 days and the petitioner No. 2 has been granted the benefit of leave encashment of 211 days.

Both the parties were directed to file the calculation sheets and accordingly, the same were filed and have been examined by this Court.

I have heard the learned counsels for the parties and have also carefully gone through the file.

The examination of calculation sheet (Annexure-R-4) qua Jaipal Phogat, Mechanic (petitioner No. 1) shows that the mischief has been done, while calculating the un-utilized earned leave on 27.4.1999, 22.5.2003 and 31.10.2007 wherein the un-utilized earned leave for 362 days, 375 days and 335 days respectively have been reduced to 300 days on the assumption that the petitioner is entitled to maximum 300 days earned leave. Similarly, in case of Jaibhagwan, Mechanic (petitioner No. 2), the earned leave has been reduced on 11.8.2002, 22.5.2003 and 22.8.2003 from 308 days, 307 days and 305 days respectively to 300 days on the same assumption.

I am of the view that if an employee is entitled to leave encashment for maximum limit of 300 days, that does not mean that the accumulated un-utilized leave is to be reduced to 300 days, if it exceeds the said maximum limit of 300 days. The earned leave will continue to accumulate till the retirement of the petitioners and the petitioners are to be granted the maximum benefit of 300 days, as stated in the rules.

In this way, the calculation done by the respondents is not only mischievous, but wrong application of the principle of calculation of un-utilized earned leave is also there. As such, the calculations made by the petitioners are accepted and that of the respondents are set aside and accordingly, it is held that the petitioner No. 1 is entitled to leave encashment payment to the extent of 300 days and the petitioner No. 2 is held entitled to leave encashment payment to the extent of 268 days, whereas they have been granted the leave encashment payment to the extent

of 257 days and 211 days respectively. The arrears of leave encashment payment shall be released to the petitioners alongwith interest at the rate of 9% per annum from the date of retirement till payment, within two months from the date of receipt of copy of this judgment. The respondents are further directed to hold an inquiry and fix the responsibility as to who has done the wrong calculations and take follow up action against the delinquent official for causing harassment to the petitioners and dragging the respondent-department to the Court, resulting in un-necessary expenses and wastage of time of the Court.

The present writ petition is allowed.

(KULDIP SINGH)
JUDGE

5.10.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No