

2025.PHHC.032976-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1. LPA-3263-2024 (O&M)

HOME SECRETARY-cum-SECRETARY TRANSPORT, U.T.
CHANDIGARH & ANR.

.....Appellants

Versus

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL AND LABOUR
COURT, UNION TERRITORY CHANDIGARH & Anr.

.....Respondents

2. LPA-3264-2024 (O&M)

HOME SECRETARY-cum-SECRETARY TRANSPORT, & ANR

.....Appellants

Versus

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL AND LABOUR
COURT UT CHANDIGARH & ANR.

.....Respondents

3. LPA-3265-2024 (O&M)

HOME SECRETARY-cum-SECRETARY TRANSPORT, & ANR

.....Appellants

Versus

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL AND LABOUR
COURT & ANR.

.....Respondents

4. LPA-3266-2024 (O&M)

HOME SECRETARY-cum-SECRETARY TRANSPORT, & ANR

.....Appellants

Versus

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL AND LABOUR
COURT & ANR.

.....Respondents

5. LPA-3267-2024 (O&M)

HOME SECRETARY-cum-SECRETARY TRANSPORT, & ANR
.....Appellants

Versus

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL AND LABOUR
COURT & ANR.

.....Respondents

6. LPA-3268-2024 (O&M)

HOME SECRETARY-cum-SECRETARY TRANSPORT, & ANR
.....Appellants

Versus

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL AND LABOUR
COURT & ANR.

.....Respondents

7. LPA-3269-2024 (O&M)

HOME SECRETARY-cum-SECRETARY TRANSPORT, & ANR
.....Appellants

Versus

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL AND LABOUR
COURT & ANR.

.....Respondents

8. LPA-3270-2024 (O&M)

HOME SECRETARY-cum-SECRETARY TRANSPORT, & ANR
.....Appellants

Versus

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL AND LABOUR
COURT & ANR.

.....Respondents

9. LPA-3271-2024 (O&M)

HOME SECRETARY-cum-SECRETARY TRANSPORT, & ANR
.....Appellants

Versus

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL AND LABOUR COURT & ANR.

.....Respondents

10. **LPA-3272-2024 (O&M)**

HOME SECRETARY-cum-SECRETARY TRANSPORT, & ANR

.....Appellants

Versus

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL AND LABOUR COURT & ANR.

.....Respondents

11. **LPA-3273-2024 (O&M)**

HOME SECRETARY-cum-SECRETARY TRANSPORT, & ANR

.....Appellants

Versus

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL AND LABOUR COURT & ANR.

.....Respondents

Date of decision: 28.01.2025

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present:- Mr. Sumeet Jain, Addl. Standing Counsel with
Ms. Shubreet Kaur, Jr. Panel Counsel, Advocate
for the appellant(s).

SUDHIR SINGH, J.

This order shall dispose of the above noted batch of 11 cases, as the same arise out of a common order dated 22.07.2024 passed by the learned Single Judge, whereby the writ petitions filed by the petitioners therein, were dismissed. However, for the facility of reference, the facts are taken from LPA-3263-2024.

2. The challenge before the learned Single Judge, was to the order dated 23.02.2024 passed by the Industrial Tribunal and Labour Court, U.T., Chandigarh, whereby an application under Section 33C(2) of the Industrial Disputes Act, 1947 (for short 'the Act') was allowed and the respondent-workman was held entitled to the leave encashment for 300 un-utilized earned leaves to his credit.

3. The facts of the case are that the respondent-workman and other similarly situated persons were engaged by the appellant No.2, initially for a period of 89 days vide appointment order dated 11.12.1998 (Annexure P-1). The contract of the respondent-workman was extended from time to time. In the earlier round of litigation, when the appellants had attempted to dispense with the services of the workman, the same was negated by the Industrial Tribunal vide award dated 27.02.2013 and ordered his reinstatement along with 50% back wages besides granting him continuity in service. The appellants had unsuccessfully challenged the said award by way of a writ petition before this Court, against which an intra Court appeal is stated to be pending. The workman had also claimed gratuity from the Competent Authority, which was allowed but an appeal is stated to be pending before the Appellate Authority.

4. As noticed above, the learned Single Judge, dismissed the writ petition filed by the appellants and by holding as under:-

“9. From the perusal of findings recorded by the Tribunal, it is evident that there is no jurisdictional error in the impugned order. The Labour Court has

found that respondent No.2 worked with the petitioner from 1998 to 2021 which was a long period of service. The Tribunal has found that there is nothing in the appointment letter which deprives respondent No.2 from benefit of leave encashment. The officials of the petitioner during cross-examination could not support case of the petitioner. The findings recorded by Tribunal are more or less findings of facts. Respondent No.2 indubitably has worked for more than 20 years, thus, denial of benefit of leave encashment would be travesty of justice and against the intent and purport of scheme of leave encashment.”

5. Learned counsel for the appellants has vehemently argued that the respondent-workman was a contractual employee and, therefore, he was not entitled to leave encashment. It is yet further submitted that against the order of grant of gratuity by the Competent Authority, an appeal is pending before the Appellate Authority and qua the reinstatement of the respondent-workman, intra Court appeal is pending. It is further submitted that the matter pertains to the interpretation and applicability of the service Rules to the respondent-workman and, therefore, the learned Single Judge was not justified in dismissing the writ petition filed by the appellants.

6. We have heard the learned counsel for the appellants and have also gone through the impugned order.

7. The only question that arises for consideration by this Court is whether the impugned order passed by the learned Single Judge, requires any interference.

8. In the impugned order, the learned Single Judge, has observed that the error of fact cannot be gone into the writ petition and it is only the error of law or jurisdiction that can be corrected in a writ petition seeking issuance of a writ of Certiorari. While extracting para No.18 of the order of the Labour Court, the learned Single Judge has held that the workman had served the Department for a long period of more than 20 years and, therefore, denying him benefit of leave encashment would be travesty of justice.

9. It is not disputed that the respondent-workman had served the appellant-Management for more than 20 years. It is also not disputed that there was no stipulation in the appointment letter of the respondent-workman that he was not entitled to the leave encashment or other benefits. Still further, it is also not disputed that in terms of Rule 8.57 of the Punjab Civil Services Rules (Volume 1, Part II), leave is admissible to the Government employees engaged on contract, but the same will not be in excess of the leave admissible to a Government employee holding a permanent post. Rules 8.116, 8.117 and 8.119 read with Rule 8.113 of the Punjab Civil Services Rules stipulate the entitlement of the respondent-workman for the unutilized earned leave.

10. In terms of the aforesaid Rules, a contractual employee is also entitled to the same benefit of leave as is granted to the regular employee. The Tribunal had found that the respondent-workman, at

the time of retirement, was having to his credit un-utilized earned leave of 300 days.

11. The submission of the learned counsel for the appellants that as the appeal against the order passed by the Competent Authority granting gratuity to the respondent-workman is pending and so is the intra Court appeal before this Court, against the order of reinstatement and payment of back wages, therefore, the learned Single Judge was not right in dismissing the writ petition, is not tenable. We say so for the reason that admittedly, the respondent-workman has served the appellant-Management for more than 20 years. As per the stand of the appellants, which could not be disputed even before this Court, the respondent-workman was, at the time of his retirement, having 300 days of un-utilized earned leave to his credit, and in terms of the aforesaid Rules, the respondent-workman has rightly been held entitled to the leave encashment for the said un-utilized leave.

12. No other point has been urged.

13. In view of the above findings, no merit in the present appeals, the same are hereby dismissed.

14. Pending application(s), if any, shall also stand disposed of.

[SUDHIR SINGH]
JUDGE

[SUKHVINDER KAUR]
JUDGE

28.01.2025

Himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No