

2025:PHHC:054486



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

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**CWP-4092-1998 (O&M)**  
**Date of Decision: 24.04.2025**

**GANESH DASS**

... Petitioner

VERSUS

**KENDRIYA VIDYALAYA SANGTHAN THROUGH THE  
COMMISSIONER AND ORS.**

... Respondents

**CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.**

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Present: Mr. Hritik Gupta, Advocate for the petitioner.

Mr. Harsh Aggarwal and Mr. Lakshya Aggarwal,  
Advocates for the respondents.

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**VINOD S. BHARDWAJ, J. (ORAL)**

**CM-6479-1998**

Allowed as prayed for.

**CM-4497-CWP-2025**

Allowed as prayed for.

The documents Annexures P-4 to P-7 are ordered to be taken on record subject to all just exceptions. Registry is directed to tag the same at appropriate place of the paper book.

**MAIN CASE**

Prayer in the present petition is for directing respondent No.3 and 4 for setting aside the instructions (Annexure P-2) and thereby reducing the duty hours of the petitioner from 18 hours to 10 hours a day.

It has been informed by the counsel for the respondents that the petitioner already stands superannuated.

On being confronted with the above information, counsel for the petitioner contends that he does not wish to press his prayer to the extent of initial challenge raised to the reduction of duty hours from 18 hours to 10 hours. He contends that in such an eventuality, he would stress upon his second prayer w.r.t. grant of overtime allowance in case the duty hours are stretched beyond 10 hours.

Learned counsel for the petitioner has been heard at length on the aforesaid prayer, however, a perusal of the pleadings shows that no specific detail has been mentioned about the petitioner w.r.t. the overtime that he has worked in the interregnum or prior to the institution of the present petition.

Under the given circumstances, the said prayer cannot be assumed as giving rise to creation of a right in favour of the petitioner on a presumption that the petitioner has not been paid his overtime allowance. In any case, in the event of the petitioner establishing his claim for an overtime allowance, which has allegedly/illegally been denied to him contrary to the provisions of the Payment of Wages Act, 1936, the remedy would be available to the petitioner to file an appropriate petition before the Commissioner, Payment of Wages Act, 1936.

Counsel for the respondents contends that the petitioner had in fact preferred an application before the Commissioner, Payment of Wages Act, 1936 and the same was withdrawn by the petitioner.

Be that as it may, since the said application before the Commissioner, Payment of Wages Act, 1936 has been withdrawn on account of

pendency of the instant writ petition and considering that the present writ petition is severely deficient insofar as the material contained therein is concerned, that would have established the claim of the petitioner about the alleged non-payment of the overtime allowance, I find that no cause of action would survive in favour of the petitioner at this juncture.

The present writ petition is accordingly disposed of as having been rendered infructuous.

Liberty is, however, granted to the petitioner to file an appropriate petition before the Commissioner under the Payment of Wages Act, 1936 for seeking overtime allowance, if any, which became admissible to him but has not been paid to him.

Needless to mention that in the event of the petitioner preferring any such claim, before the Commissioner, Payment of Wages Act, 1936, the period during which the present petition remained pending before this Court shall be taken into consideration for computing limitation.

All other misc. application(s), if any, also stand(s) disposed of accordingly.

**APRIL 24, 2025.**

*Rajender*

**(VINOD S. BHARDWAJ)  
JUDGE**

*Whether speaking/reasoned* : Yes/No

*Whether reportable* : Yes/No