**NOTICE**

From:- Birender Singh Duhan lect.(Retd)

House No. 2281 ,Urban –Estate , Jind.

To

The Distt. Edu. Officer,

Jind.

Memo no.19/06/edu dated 25.11.2019

Sub:- Encashment of pending earn leave dues.

Dear Sir,

I Birender Singh ,Lect. Pol.Sc.(Retd.) superannuation on 30.6. 2018. I was appointed lecturer in Secondary Edu. Department as per directions issued by the Hon’ble Punjab and Haryana High Court in CWP no. 10767 of 2002 on 25.9.2003 , furtherance to this vide DSE Haryana Letter no. 13/38-04-E-iv )4) dt 17.1.2005 my deemed date of appointment as lecturer to be 13.3.1996 instead 10.05.1999.

2. Principal G.S.S.S. Bhambhewa Jind released partial leave encashment amount considering actual date of appointment w.e.f. 10.5.1999, . ,causing huge financial loss to me as well mental torturer since 30.6.2018. Numerous appeals in this regard in the form of RTI had already been made to DEO Jind and Principal G.S.S.S. Bhambhewa –Jind to release the pending due of cash leave forthwith but all in vain.

3. I appeal through this letter to direct the said Principal to release the balance leave encashment amount considering service period w..e..f. 13.3.1996 instead 10.5.1999 , with 12% interest p.a. since 1.7.2018 .

4. I must not be made accountable to move in the court of law in near future.

Yours sincerely

25.11.2019 Birender Singh Duhan Lect. (Retd.)

Ph.9671314333

**OFFICE OF THE DISTRICT EDUCATION OFFFICER, JIND**

TO

Local RTI Branch,Distt. Jind.

No. E-ii/2019/**1604 Dated 17.1.2019**

Subject:- To provide the information according to RTI ACT-2005 ,in the case of Sh. Birender Lect.(Retd) House No. 2281 ,Urban –Estate ,Jind.

In the above cited subject, information under para no.5 of your R.T.I. application, reply is :-

Earned Leave will be calculated from the date of joining .Therefore, in the above cited subject, applicant joined the duty on 19.5.1999 . Further information attached with two pages .

Attached two **pages Distt. Edu.officer**

**Jind**

**OFFICE OF THE DISTRICT EDUCATION OFFFICER, JIND**

**To**

**Principal**

**GSSS. Bhambhewa (Jind)**

**No. E-2/2018/113 dated 20.7.2018**

Subject:- in the case of Earned Leave of Sh. Birender Singh Lect. (Retd.) GSSS. Bhambhewa D.O.R., 30.6.2018.

In above subject, regarding letter no. special/2018/RO Dated 6.7.2018

In the above mentioned matter, it is inform to you that earned leave of Sh. Birender Singh Lecturer (Retd.) Pol. Sc. G.S.S.S. Bhambhewa will be reckoned from the date of appointment 19.5.1999 . This information is sent to you for further n/ action.

Attached original matter and Service Book

Distt. Edu.officer

Jind

To

Distt. Edu. officer

Jind

No. Spl./2018/**RT dated 6.7.2018**

Subject:- For clarification regarding Earned Leave

Sir

In the above cited subject , Mr. Birender Singh Lecturer in Pol.Sc. G.S.S.S. Bhambhewa has retired from service ,his original date of joining in service is 19.5.1999 but he has got all the service benefits (A.C.P. etc.) from 13.3.1996, according to the order dated 25.9.2003 in C.W.P. No. 10767 of 2002 of Punjab and Haryana High Court and vide letter no.13/38-04-E-IV (4) dated 17.1.2005 issued by the D.S.E. Haryana . It may be clarified that whether the earned leave are to be paid w.e.f. 19.5.1999 or 13.3.1996.

Thanking You

Attached :- Service Book Principal

G.S.S.S .Bhambhewa (Jind)

**OOFICE OF THE DIRECTOR, SECONDARY EDUCATION HARYANA**

**CHANDIGARH**

**Order no. 13/38-04-E-IV(4) Dated Chandigarh, the 17.1.2005**

Consequent upon the direction of Hon’ble High Court dated Sep.25,2003 rendered in CWP no. 10767 of 2002 ,the following lecturer in Political Science, who were appointed vide this office order no.13/91-96-Eiv(4) dated 10.5.1999 against E.S.M. quota are hereby deemed to be appointed as lecturer in Political Science w..e..f. 13.3.1996 instead of 10.5.1999 . However nothing beyond the benefit of pay fixation and seniority will be paid to them from the date i.e. 13.3.1996.

**Sr. No. Name and Address Subject place of Posting**

1. Ram Niwas s/o Sh. Ram Chander, Pol .Sc. G.S.S.S. Purkhas(Spt.)

VPO Bhainswal Kalan (Spt.)

2.Sh.Ram Avtar s/o Rameshwar VPO -Do- G..S.S.S. Kosli (Rewari)

Nahar

3.Ishwar Singhs/o Mor Chand VPO Sha (SPt.) -Do- G.S.S.S. KHUbru

4. Anand Kumar s/o Pyare Lal -Do- G.S.S.S. Kund (Rewari)

**5.Sh.Virender Singh s/o Sh. Rajmal -Do- G.S.S.S. Kalwa (jind)**

**H.No.1281 Urban-Estate,Jind**

6.Sh.Laxami Narain s/o Maharan \_Do- GSSS Atela Khurd)

VPO Dhagroli (Bhw)

PC Bidhan

**Director, Secondary Education**

**Haryana Chandigarh**

Endst. No. Even dated ,Chandigarh,the 18.1.2004

A copy is forwarded to the following for information and necessary action:-

1.The DEO Bhiwani/Jind.Sonipat .They are directed to fixed the pay of the individual immediately.

2.Principal concerned

3.official concerned

4.Estt.-IV(5) for fixation of seniority of the individual according the revised order..

Joint Director Enquiry for Director, Sec. Edu.

In the High Court of Punjab and Haryana at Chandigarh.

C.W.P. No. 10767 of 2002

Birender Singh Duhan, Lecturer Political Science, Govt. Sr. School, Kalwa Tehsil Safidon Distt. Jind

---------------- Petitioner

Versus

1. State of Haryana through its Secretary Education Department, Haryana Civil Secretariat, Chandigarh

2. Director, Secondary Education Haryana Chandigarh

3. Distt. Education Officer, Jind

----------------------------- Respondents

A Writ in the nature of certiorari to quash the impugned order Annexure P-4 by which the representation of the petitioner has been rejected and further writ in the nature of mandamus for directing the respondents to fix the seniority of the petitioner w.e.f. the 1996 likewise his similar situated persons and pay also be fixed accordingly with all consequential benefits.

Present:- Mr. J.S. Dahiya, Advocate

For the petitioner

Mr. Rajbir Sehrawat Deputy Advocate General Haryana for the respondents

Ld. Counsel appearing for the respondent-State submits that there appears to be some error in the impugned order dated 17.4.2002 vide which the claim of the petitioner was declined. A division Bench of this Court in CWP in 9014 of 1996 granted the following relief to the petitioner:\_

“For the reason mentioned above the writ petitions are allowed .The selection and appointment of respondent no.4 to 7 are declared illegal and quashed .The Subordinate Services Selection Board is directed to re-determine the merit of Ex Servicemen/dependents of ex-servicemen and the appointing authority is directed to appoint the candidates falling in the category of ex-ervicemen in accordance with the revised merit list.”

In view of the above relief granted to the petitioner. It is but obvious that the petitioner’s appointment has to relate in place of dependents of ex-servicemen ,who were wrongly appointed by the Board and whose selection was set aside by the Division Bench of this court. The said judgment of the Division Bench has attained finality.

In these circumstances and on fair stand taken by the State, we dispose of this writ petition with a direction to the respondents to consider the claim of the petitioner in the light of the aforesaid judgment of the Division Bench and Rule 4.9 of the Punjab Civil Services Rules Volume-1.

Sep.25., 2003 Sd- Swatanter Kumar

(Judge)

Sd/- Satish Kumar Mittal

Judge

OFFICE OF THE DISTRICT EDUCATION OFFFICER, NARNAUL

No.E-1/09(ACP) 429-93 **Dated 1.9.2009**

In exercise of Powers conferred to me vide special Secretary to Education Department, Haryana Chandigarh order no.4/78-2009 HRL(2) dated 24.4.2009 and Haryana Civil Services’ (ACP Rules 2008 issued vide FD HAR. no. GSR/Cons/Art.309/08 dated 30.12.2008 , IL First ACP Pay Band and Grade Pay as mentioned below is hereby awarded to the following Lect. ( School Cadre) on completion of 10 years of Regular Satisfactory services :-

1. 2. 3. 4.

Name and Designation Functional Pay Scale to the post as on Date of regular Date from of the present school 31.12.2005 on which the official was appointment which ACP recruited /promoted and Grade

Pay allowed

**Sh. Birender Singh** 7500-12000 **13.3.1996**  **1.4.2006**

In Pol.Sc **deemed date of**

GSSS Karira Joining

M.Garh

5 6 7

P.B. no. Pay Band Grade Pay

2 9300-34800 5400/-

It is certified that qualifying period necessary for awarding 1st ACP and Grade Pay has been got verified by the Section Officer concerned .It is also certified that the official is eligible for granting 1st ACP and Grade Pay.

( M.C. Yadav)

Distt. Education Officer

NARNAUL

Endst no. –Even Dated 1.9.2009

Copy is forwarded to the following for n/action

1.Principal GSSS Karira w.r.t. his no.501

2.E.S. Branch of the office along with Personal cic of official

3 official concerned

Distt. Education Officer

NARNAUL

Office of the Principal Accountant General (A&E) Haryana,

Plot no.475 Sector-33-B Chandigarh

**( Pension Payment Order) part -1**

Rules applicable : Haryana

PPO No.:- APP No.1017194380

Case no. PEN -3// 111818303218032/4/P/17/10/189947

Pension : Rs.42900/- until further order and on the expiration of every month please pay to:-

**Sh. Birender Singh son of Sh. Raj Mal Singh**

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The payment of pension should commence from 1.7.2018

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* 1. Name of the Govt. servant :- Birender Singh
  2. Post held :- lecturer in Pol. Science
  3. Scale of post--

4. Office :-Principal Govt. Sr Sec. School ,Bhambhewa,Jind

5. H.No. 2281 ,Urban –Estate ,Jind, Haryana

6. Date of birth of the govt. employee 19.6.1960

**Date of Appointment :- 13.3.1996**

Date of Retirement:- 30.6.2018

7.Class of pension :- Superannuation Pension (Rule 5.27 of CSR)

**Qualifying Service:- 22 Years 3 Months 19 Days**

8. Average Emoluments :- Rs. 85800 GR Rs.0

Emoluments for family pension Rs. 85800 GR RS.0

Emoluments for DCRG :- 85800 & GR Rs.0

Last Pay drawn :- Rs. 85800 & GR Rs.0

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1. Detail of family members eligible for family pension

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**Office of the Principal Govt. Sr. School Bhambhewa (Jind)**

To

**Distt. Education Officer,**

**Jind.**

No. 2733 **Dated 16.1.2020**

Subject:- Reply of notice in the matter of leave encashment submitted by the Birender Singh Lecturer (Retd.)

Sir,

According to your letter no. E-2/20/268 dated 9.1.2020, reply of the notice is given below :-

That vide letter no. Apl./2018/RTI/dated 6.7.2018, Govt. Sr. Sec. School Bhambhewa (Jind) had taken the clarification//guidance regarding earned leave of Mr. Birender Singh lecturer (retd.) Pol. Science from the office of the District Education Officer Jind , office reply was received in this school vide letter no.E-2/2018/113 on 20.7.2018 . According to this, calculation of the earned leave becomes from the date of joining i.e. 19.5.2019 ( letter is attached). Therefore, Principal of the Govt. Sr. Sec. School Bhambhewa has been granted the amount of leave encashment to Mr. Birender Singh lecturer (Retd.) .Therefore , there is nothing pending any amount of leave encashment towards this school .

Information is forwarded for taking n/action

Principal

Govt. Sr. Sec. School.Bhambhewa (Jind)

Copy to:-

1.Sh. Birender Singh lecturer (Retd.) H.No. 2281.u/e jind

2.Office ,Sub Division Educational officer Pillu-Khera(Jind

From:- Birender Singh . Lect .(Retd.)

House No. 2281, Urban- Estate, Jind

To

Sate Public information Officer -cum- Distt. Education Officer, Jind

Subject:- The following information is needed under RTI Act, 2005. Point wise with relevant order/directions no.s pertaining to the information required by the applicant:-

* 1. As I superannuated on 30th June 2018 ,my GPF/GIS amount transferred to my a/c no. on 13.7.2018 .it both amt remained with school principal for 13 days .

2. Leave encashment amount transferred to my a/c on 23.7.2018 , the amount was held up for 23 days

3. GPF/GIS described in column no.1 ,leave encashment in column no.2 ,under which rule the head of institute kept the pensioner money under his arm , only to provide mental agony to retiree, hence provide the detail of interest from 1.7.2019 to 23.7.2018, due to delay caused by his office @8%p.a.

4. My LTC amount for the year 2017-18 same sectioned by DEO Jind was Rs. 90090, where as an amount of Rs. 4500/- deducted from LTC by Principal without written information to the subscriber, a single pie cannot be deducted from any form of payment.

a. Kindly look the method of calculating the deduction amount from LTC.

b. Provide me copy of rule which designate the principal to manage the financial matter own his own.

5. **The deemed date of appointment as lecturer in Pol.Sc. was conferred to me w.e.f. 13.3.1996 vide CWP no. 10767 of 2002 decided by the P& Har. High Court on 25.9.2003, vide DSE letter no. 13/38-04-E-N dated 17.1.2005**

**a. as per service record above, my earned leave becomes**

**=220 E. Leave availed = 4**

**Balance =216**

**Hence amount of leave encashment 216x91806 (BP+DA)**

**30 = 6,61,0032/-**

**Paid to me = 5,69,197.00 on 23.7.2018**

**Balance = Rs. 91,803/-**

b. Kindly guide me the authority under which Rs. worth 91803/- has been deducted by concerned officer , mention if any narrative from dept. in this regard/PFR Rules.

6. Provide information that there is any special law that DDO/ Principal is not bound to inform the retiree in black & white while calculating /depositing the dues of pensioners ,if so, quote the rules

Encl. Yours – 2.8.2018

Birender Duhan Ex. Lect. G.S.S.S. Bhambhewa

In the High Court of Punjab and Haryana at Chandigarh.

Civil Writ Petition No.\_\_\_\_\_\_\_\_\_of 2020

**MEMO OF PARTIES**

Birender Singh aged about 60 years s/o Sh. Rajmal Singh (EmployeeID:0G45GV, PPO No. APP No.1017194380) Lecturer in Pol. Science (Now Retd.) G.S.S.S. Bhambhewa –Jind, presently resident of House no. 2281, Urban –Estate –Jind.

**-------------------Petitioner**

**Versus**

1. State of Haryana Additional Chief Secretary to Govt. of Haryana, Education Deptt. Civil Sectt. Chandigarh.
2. Director, Secondary Education, Haryana, Shiksha Sadan, Sector 5, Panchkula.
3. District Education Officer ,Jind
4. Principal, Govt. Sr. Sec. School, Bhambhewa (Jind)
5. Accountant –General (A&E) Haryana Plot No. 4&5

Sector, 33-B Chandigarh.

**----------------Respondents.**

**Chandigarh (SURESH AHLAWAT)**

**Dated7.6.2020 ADVOCATE**

**Counsel for the petitioner.**

Civil Writ Petition under Articles 226/227 of the Constitution of India for the issuance of an appropriate order or direction, calling for the record of the case and after perusal of the same : -

Issue a Writ in the nature of Certiorari for quashing the impugned orders Annexure P-8 dated 16.1.2020/17.1.2019 (colly) whereby claim of the earned leave has been wrongly rejected w.e.f. 13.3.1996 being fully entitled for the same, as every benefit (i.e. annual increments, ACP scale, gratuity and superannuation pension ) has been granted, treated the date of appointment as 13.3.1996 instead of 19.5.1999 under the order passed by the Hon’ble High in CWP no.10767 of 2002 in lieu thereof letter dated 17.1.2005 (Annexure P-2) granting the benefits has also been issued by the department.

Further a writ in the nature of Mandamus be issued directing the respondents to grant the benefit of Earned Leave after taking in to consideration the date of appointment as 13.3.1996 instead of 19.5.1999 with all consequential benefits along with 18%interst p.a. on the amount so calculated towards leave encashment from the date of accrued (i.e 13.3.1996 to 19.5.1999 ), till final payment .

OR to issue any other appropriate order or direction which this Hon’ble Court may deem fit and proper peculiar facts and circumstances of the case.

**Respectfully showeth : -**

1. That the petitioner is resident of Haryana State and being the citizen of India, he is entitled to invoke the extraordinary writ jurisdiction of this Hon’ble High Court under Articles 226/227 of the Constitution of India.
2. That in 1995 the Haryana Service Selection Board (now H.S.S.C) advertised the various post of lecturers for appointment in Secondary Education, Haryana. Petitioner being fully eligible in the Category of Ex-Service Man (ESM ,Gen.) applied for the post of Lecturer in the subject of Political Science . Service Selection Board followed the proper process, interviews were conducted of the candidates and later on, final result of the subject of Pol. Science was declared in March,1996 but petitioner surprised after seeing the final result , being meritorious candidate in ESM Cat. not figured his roll no. in the selection list. Petitioner came to know that dependents of ESM were wrongly selected in the said list, who were not eligible .Than petitioner filled the writ petition CWP no. 9014 of 1996 in this Hon’ble Court, the said writ petition was allowed and Hon’ble Court directed the respondents to re- determine the merit of the Ex Service Man /dependents of Ex service Man .Than petitioner was appointed in the cat. of E.S.M. and joined after three years later i.e on 19.5.1999 in G.S.S.S. Kalwa (Jind) but the respondents gave fresh appointment to the petitioner , in fresh pay scale and seniority has also not been granted, whereas similar situated persons in the same selection list were appointed and joined in month of March -1996 .
3. That than petitioner constrained by the respondents to file another writ petition before this Hon’ble Court vide CWP no.10767of 2002, prayer was made to grant the seniority with all service consequential benefits w.e.f. 13 March-1996, where by similar situated persons in the same selection list were appointed . Than Hon’ble High Court vide order dated 25,Sep.2003 directed the respondents to consider the claim of the petitioner in the light of previous judgment in CWP 9014 of 1996 and under Rule 4.9 of the Punjab Civil Service Rules Volume-1. A copy of the said order dated 25.9.2003 is attached herewith as **Annexure P-1**

**Rule 4.9 Vol.1 Part 1** is reproduced below for kind attention : - The following provisions prescribe the conditions on which service counts for increments in a time-scale-

a) All duty in a post on a time scale counts for increment in the time scale: Provided that ,for the purpose of arriving at the date of the next increment in that time scale ,the total of all such periods as do not count for increment in that time-scale shall be added to the normal date of increment…..

4. That after passing the order by the Hon’ble High Court in C.W.P. No. 10767 0f 2002 ,respondents had complied the said order vide letter dated 17.1.2005 , wherein, it is clear mentioned that petitioner would deemed to be appointed as lecturer in Pol. Science w.e.f 13.3.1996 instead of 10.5.1999 and pay of the petitioner has been re-fixed vide letter dated 8.2.2005 w.e.f 13.3.1996 . True copies of the said letters dated 17.1.2005 issued by the Director, Secondary Education and letter dated 8.2.2005 issued by the concerned Principal of the School are attached herewith as **Annexure P-2 (colly).**

**5.** That when petitioner was rendering his services to the education department very honestly, sincerely and continuously without any complaint, than respondents rightly treated his appointment w.e.f. 13.3.1996 (in terms of letter dated 17.1.2005 Ann. P-2) and granted the First ACP Scale after completed the 10 years regular satisfactory service w.e.f. 1.4.2006 vide letter dated 1.9.2009 issued by the Respondent no.3. A copy of the ACP Letter dated 1.9.2009 issued by the respondent no.3 is attached herewith as **Annexure P-3.**  In this way, Second ACP Scale was also granted to the petitioner vide letter dated 12.8.2015 w.e.f. 4.3.2014 after completion of 8 years regular satisfactory service.

1. That on 30.6.2018 after rendering the total qualifying services i.e 22 Years 3 Months 19 Days w.e.f. 13.3.1996 ( deemed dated of appointment ) to the education department, petitioner was gracefully retired from service after attaining his age of superannuation .
2. That before attaining his age of superannuation, respondent no.4 submitted his superannuation pension papers along with other documents related to retiral benefits to the respondent no .5 i.e Accountant –General. In all the papers submitted to the respondent no.5 in which clearly mentioned that qualifying service of the petitioner is 22 years 3 months 19 days w.e.f 13.3.1996 ( Date of entry in service) which are attached herewith as **Annexure P-4** (colly) for kind consideration.
3. That respondent no 5 i.e. Accountant –General ,Haryana has also considered the deemed date of appointment of the petitioner w.e.f. 13.3.1996 and calculated his total qualifying services 22 Years 3 months 19 days up to 30.6.2018 and started the superannuation pension accordingly . In this regard copy of P.P.O. (pension paper order) dated 7.6.2018 of the petitioner is attached herewith **as Annexure P-5.**

It is pertinent to mention here that DCRG (Gratuity) is also granted after calculating total Gross service ( regular) w.e.f. 13.3.1996 to 30.612018 i.e. 22 years 3 months 19 days. Respondents calculated the amount of DCRG (Gratuity) in the form of ; i.e.

1. Last Emoluments :- Pay in pay matrix 85800+DA(4%) 3432+ Total Rs. 89232
2. Qualifying service in half years

Maximum 66 half years of Group A.B.and C.

C . DCRG (A) Rs. 89232 x(B) 45 + Rs.10,03,868/-

4

1. That vide order dated 25.9.2003 passed by the Hon’ble High Court in CWP No. 10767 of 2002 and letter dated 17.1.2005 issued by the Director Secondary Education Haryana, (Annexure P-1 and P-2) respondents granted all service retiral benefits ( i.e , ACP’s Annual Increments, Gratuity and Sup. Pension) after considering the deemed dated of appointment 13.3.1996 instead of 19.5.1999 of the petitioner,

but in the matter of granting the benefit of Earned Leave (leave encashment) Gross service (Regular) of the petitioner wrongly considered w.e.f. 19.5.1999 instead of 13.3.1996 ( 3 years is less) which is totally violation of the order passed by the Hon High Court (P-1 and totally contrary to the letter dated 17.1.2005 (P-2) issued by itself and granted the amount of leave encashment w.e.f 19.5.1999. Whereas petitioner is fully entitled of leave encashment on the basis of Gross Service (Regular) w.e.f. 13.3.1996 i.e 22 Years 3 months 19 days up to 30.6.,2018 rendered to the education department . As per service record of the petitioner which is given below for kind attention :-

Earned Leave (13.3.1996 to 30.6.1999) becomes +220 E. Leave availed+ 4

Balance :216

Hence amount of leave encashment +

216x91806(BP+DA) = 6,6,10032

30

Paid to the petitioner +569197 on 23.7.2018

Balance = Rs. 91,803/-

**Whereas, respondents wrongly calculated his E/Leave from the dated of joining i.e. 19.5.1999 which is given below =**

As per calculation Total E. Leave =190

E/leave availed : 4

Balance = 186

Amount of leave encashment = 91806x186 =531960/-

30

Total + 37237(DA@7%)= 569197/-

In this way, total financial loss caused by the respondents to the petitioner amount of Rs.91803/- of 30 days E/Leave .

It is pertinent to mention that grant the benefit of the earned leave to the govt. employee is mentioned under rule 8.116 of the Punjab Civil Services Rules, Vol.1 Part 1,which is reproduced below for kind consideration:-

8.116 (i) The earned leave admissible to a govt. employee in permanent employ is :-

a)1/24th of the period spent on duty ,during the first 10 years of his service .

b)1/18th of the period spent on duty during the next 10 years of his service .and 1/12th of the period spent on duty ,thereafter……

and further govt. of Haryana vide letter dated 12.8.1998 in the matter of encashment of unutilized leave decided to raise the maximum limit of leave encashment from 240 days to 300 days to the category of retirement on attaining the age of superannuation w.e.f,, 1.7.1997.

1. That petitioner immediately took the step before the respondents and submitted various representations and RTI applications to release the full amount of leave cashment after considering the entire regular services w.e.f. 13.3.1996 instead of 19.5.1999 i.e 22 Years 3 months 19 days up to 30.6.,2018 , according the judgment of the High Court and letter dated 17.1.2005 issued by itself (P-1 and P-2). Copy of the said representations are attached herewith as **Annexure P-6 (colly) .**

It is pertinent to mention here that concerned principal of the school sought the clarification from the D.E.O Jind that It may be clarified that whether the earned leaves are to be paid w.e.f. 13.3.1996 or 19.5.1999 whereas, others retrial benefits have been given to the applicant w.e.f 13.3.1996 instead of 19.5.199 .Copy of the said letter dated 6.7.2018 is attached herewith **as Annexure P-7.**

1. That lastly respondent without applying his mind rejected the representations/ genuine claim of the petitioner on 16.1.2020/17.1.2019 , on the sole ground that calculation of the earned leave of the applicant is to be counted from date of joining of the service i.e. 19.5.1999 instead of 13.3.1996 ,which is gross violation of the Judgment of the Hon’ble High Court and contrary to the letter dated 17.1.2005 issued DSE. ( Annexure- P1& P-2). Copies of the rejection letters are attached herewith as **Annexure P-8(colly).**
2. That rejection of the claim of the petitioner was for extraneous reasons as based on irrelevant considerations, denial of justice to the petitioner has led to a long and tortuous road to justice. The above said matter has been hanging fire since then. This attempt before the authority was in vain and this; he is before this Hon’ble Court.
3. That the following material questions of law arises for determination by this Hon’ble High Court : -
   * 1. Whether the action of the respondents to denial the claim of the petitioner is violation of the order of the High Court Annexure P-1 and contrary to letter dated 17.1.2005 Annexure P-2 issued in terms of P-1 .
     2. Whether the action of the respondents is violative of principle of natural justice?
     3. Whether the action of the respondents is discriminatory and violative of Articles 14 and 16 of the Constitution of India?

iv. Whether grave and manifest injustice has been done with the petitioner?

1. That the petitioner has not filed any other such or similar writ petition earlier in this Hon’ble High Court or in the Hon’ble Supreme Court of India.
2. That the petitioner has no other alternative remedy of statutory appeal or revision against the impugend order of the respondents except to file the present writ petition under Articles 226/227 of the Constitution of India.

In view of the submissions made above, it is, therefore, respectfully prayed that this Hon’ble Court may graciously be pleased to :-

1. Issue a Writ in the nature of Certiorari for quashing the impugned orders Annexure P-8 dated 16.1.2020/17.1.2019 (colly) whereby claim of the earned leave has been wrongly rejected w.e.f. 13.3.1996 being fully entitled for the same, as every benefit (i.e. annual increments, ACP scale, gratuity and superannuation pension ) has been granted treated the date of appointment as 13.3.1996 instead of 19.5.1999 under the order passed by the Hon’ble High in CWP no.10767 of 2002 in lieu thereof letter dated 17.1.2005 (Annexure P-2) granting the benefits has also been issued by the department.
2. Further a writ in the nature of Mandamus be issued directing the respondents to grant the benefit of Earned Leave after taking in to consideration the date of appointment as 13.3.1996 instead of 19.5.1999 with all consequential benefits along with 18%interst p.a. on the amount so calculated towards leave encashment from the date of accrued (i.e 13.3.1996 to 19.5.1999 ), till final payment .
3. Issue any other appropriate writ, order or direction which this Hon’ble Court may deem fit and proper in the peculiar circumstances of the case;
4. permission may be granted to place on record the photo copies of the annexures
5. filing of certified copies of annexures may kindly be exempted;
6. issuance of advance notice upon the respondents be dispensed with;
7. costs of the writ petition may be awarded to the petitioner.

**Chandigarh**

**Dated: 10.6.2029**

**Through Counsel**

**( SURESH AHLAWAT) Advocate**

**Verification.**

Verified that the contents of para 1 to 12 and 14 to 15 are true and correct to my knowledge. Legal averments are made in para 13 on the advice of the counsel and the same are believed to be correct.

**LIST OF EVENTS**

1. That in 1995 the Haryana Service Selection Board (now H.S.S.C) advertised the various post of lecturers for appointment in Secondary Education, Haryana. Petitioner being fully eligible in the Category of Ex-Service Man (ESM ,Gen.) applied for the post of Lecture in Political Science
2. Final result, of the subject of Pol. Science was declared in March,1996 but petitioner’s name was not figured in the said selection list. Petitioner came to know that dependents of ESM were wrongly selected in the said list,.

**10.5.1999** Than petitioner and similar candidates filled the writ petition CWP no. 9014 of 1996 in this Hon’ble Court the said writ petition was allowed .Than petitioner was appointed in the cat. of E.S.M. and joined after three years later i.e on 19.5.1999 in G.S.S.S. Kalwa (Jind) but the respondents has given the fresh appointment to the petitioner , in fresh pay scale and seniority was also not granted, whereas similar situated persons in the same selection list were appointed and joined in month of March -1996 .

**2002**  Than petitioner constrained by the respondents to file another writ petition before this Hon’ble Court vide CWP no.10767of 2002, prayer was made to grant the seniority with all service consequential benefits w.e.f. 13 March-1996 instead of 19.5.1999 , where by similar situated persons in the same selection list were appointed . vide order dated 25,Sep.2003 Hon’ble Court directed to the respondents to consider the claim of the petitioner in the light of previous judgment in CWP 9014 of 1996 and Rule 4.9 of the Punjab Civil Service Rules Volume-1

It is pertinent to mention here that respondent after treated his appointment (vide Annexure P1 and P-2) w.e.f. 13.3.1996 granted all services benefits like ACP Scale and annual increments w.e.f. 13.3.1996 instead of 19.5.1999.

**On 30.6.2018** after rendering the total qualifying services i.e 22 Years 3 Months 19 Days w.e.f. 13.3.1996 ( deemed dated of appointment ) to the education department, petitioner was gracefully retired from service after attaining his age of superannuation .

That respondent no 5 i.e. Accountant –General ,Haryana has also considered the deemed date of appointment of the petitioner w.e.f. 13.3.1996 and calculated total qualifying services rendered by the petitioner 22 Years 3 months 19 days up to 30.6.,2018 and started the superannuation pension accordingly .

It is pertinent to mention here that DCRG (Gratuity) is also granted after calculating total Gross service ( regular) w.e.f. 13.3.1996 to 30.612018 i.e. 22 years 3 months 19 days.

But in the matter of Earned Leave (leave encashment), Gross service (Regular) of the petitioner wrongly considered w.e.f. 19.5.1999 instead of 13.3.1996 ( 3 years is less) which is totally violation of the order passed by the Hon High Court (P-1 and totally contrary to the letter dated 17.1.2005 (P-2) issued by itself and granted the amount of leave encashment . Whereas petitioner is fully entitled of leave encashment on the basis of Gross Service (Regular) w.e.f. 13.3.1996 i.e 22 Years 3 months 19 days up to 30.6.,2018 rendered to the education department .

That petitioner immediately took the step before the respondents and submitted various representations and RTI applications to release the full amount of Earned leave after considering the entire service w.e.f. 13.3.1996 instead of 19.5.1999 , according the judgment of the High Court and letter dated 17.1.2005 issued by itself (P-1 and P-2).

That lastly respondents rejected the representations/ genuine claim of the petitioner on 16.1.2020, on the sole ground that calculation of the earned leave of the applicant is to be counted from date of joining of the service i.e. 19.5.1999 instead of 13.3.1996 ,which is gross violation of the Judgment of the Hon’ble High Court and contrary to the letter dated 17.1.2005 ( Annexure- P1& P-2).

Hence this writ petition.

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2020

Birender Singh - ------------ Petitioner

VERSUS

State of Haryana and others ----------- Respondents

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NOTE: 65.10

1. That the main law points involved in the writ petition are contained in para no. 11 at page no.

2. Relevant Statutes/Rules:

i. The Constitution of India.

ii. Civil Services Rules

3 Caveat petition filled :- No.

Similar case if any:

**DECLARATION**

The copies, as required by rule 16 of Chapter I Part A(a) of the Rules and Orders of Punjab and Haryana High Court, Volume-V, have been served upon----------- (the person upon whom the copies have been served)----------- at-----------(time) on-----------(date) in--------(place).

CHANDIGARH  **(SURESH AHLAWAT)**

DATED: .6.2020 **ADVOCATE**

**COUNSEL FOR THE PETITIONER**