

State of Punjab and Others

v.

Dr. Rajeev Sarwal

(Supreme Court Of India)

HON'BLE MR. JUSTICE S. RAJENDRA BABU HON'BLE MR. JUSTICE
S.N. PHUKAN

Civil Appeal No. 2575 Of 1997 | 08-04-1999

1. In this appeal the short question that arises for consideration is the interpretation and application of Rule 5 of the Study Leave Rules, 1963 framed by the Government of Punjab. The respondent joined the service of the appellant as a Medical Officer and at the time of joining the service he was a medical graduate. The respondent availed of study leave in order to join postgraduate course. After serving the department for some time the respondent applied for admission to D.M. in Gastroenterology which is a superspeciality and the respondent's name was sponsored after obtaining a bond from him. The appellant took the stand that the respondent having availed of 24 months of study leave on an earlier occasion when he obtained postgraduate degree, he is not entitled to any further study leave in terms of Rule 5 of the Study Leave Rules. On that basis the appellant wanted to take action against the respondent.

2. A writ petition was preferred by the respondent and the High Court allowed the writ petition on the ground that the rules could have been relaxed by the Government to extend the benefit of study leave as has been done in several other cases and similar treatment not having been extended to the respondent, the action proposed to be taken by the appellant is contrary to Article 14 of the Constitution.

3. We do not think the approach of the High Court in this matter is justified. The proper course was to interpret the rule and apply the same. We set out the rule hereunder for proper appreciation.

4. The rule provides that the maximum amount of study leave which may be granted to a government employee shall be :

"(i) Ordinarily twelve months at any one time, which shall not be exceeded save for exceptional reasons, and(ii) Twenty-four months (inclusive of study leave granted under any other rules) in all during the entire service."

5. Ordinarily study leave can be availed of for a period of twelve months but may be extended up to 24 months during the entire service. The rule is categorical and does not consist of any doubt regarding this purpose. The maximum period of study leave cannot exceed 24 months even in case where study leave is granted under other rules.

6. The contention put forth on behalf of the respondent that the period of study leave could be granted at a time not exceeding 24 months does not stand to reason at all because the rule is very clear that 24 months is relatable to the entire service and not to any part of service. The validity of the rule was not challenged before the High Court. Therefore, that aspect could not be gone into by the High Court. Nor could it be said that the exercise of power by the appellant was arbitrary, in any manner, merely because that power of relaxation was used in certain cases. In our opinion relaxation also cannot be read into a provision of this nature where the rule itself mandates the maximum period to be 24 months for the entire service. The order made by the High Court is, therefore, not sustainable.

7. However, in this case the respondent has already received the benefit and it would not be appropriate to recover any arrears of money if already paid. Subject to what is stated above, the appeal is allowed. There shall, however, be no order as to costs.