



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.14496 of 2024

Decided on: 13th August, 2025

Sant RamPetitioner

Versus

State of H.P. and othersRespondents

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?¹ Yes.

For the Petitioner: Mr. Hirdaya Ram, Advocate.

For the Respondents: Mr. Anup Rattan, Advocate General
with Ms. Menka Raj Chauhan, Deputy
Advocate General.

Jyotsna Rewal Dua, Judge

Petitioner was sanctioned study leave by the respondents for pursuing three years LLB Degree course from the Himachal Pradesh University, Shimla, subject to certain terms & conditions including that quantum of study leave will not extend beyond 24 months, i.e. 730 days. While applying for the study leave, petitioner had indicated tentative schedule for availing the leave in different spells with total period coming to 721 days. During the study leave, petitioner was to be paid full salary in terms of the

¹Whether reporters of print and electronic media may be allowed to see the order? Yes.

applicable Central Civil Services (Leave) Rules, 1972. Additionally, respondents had been separately sanctioning study leave to the petitioner for different spells as prayed for by him based upon the schedule of LLB Degree course. While pursuing the LLB Degree course, during one such spell of study leave prayed for by the petitioner, Rule 56 of the Central Civil Services (Leave) Rules, 1972 governing leave salary during study leave, was amended by the respondent-State under notification dated 07.08.2024. In terms of the amendment, a government servant was to draw leave salary equal to 40% of the pay that he drew while on duty with the Government immediately before proceeding on such leave in addition to the Dearness Allowance and House Rent Allowance as admissible to him. Based upon this notification, respondent-State declined to grant full salary to the petitioner for his remaining study leave period. Petitioner feels aggrieved against denial of full salary to him during study leave. Hence, the petition.

2. The case

2(i). Petitioner was serving as Labour Inspector, Solan Circle in the respondent-Labour & Employment Department. On 01.11.2022 (Annexure P-1), he requested for granting him permission to appear in the LLB Entrance

Examination as well as to pursue the three years LLB Degree course on regular basis. Respondent No.3-Labour Commissioner-cum-Director of Employment, Himachal Pradesh vide his office letter dated 28.01.2023 (Annexure P-2), granted permission to the petitioner to appear in the entrance examination for three years LLB Degree course from H.P. University, Shimla.

2(ii). Petitioner qualified the entrance examination and moved an application on 02.08.2023 (Annexure P-4) on the prescribed proforma seeking study leave for three years w.e.f. 01.09.2023 to pursue the LLB Degree course from H.P. University. His application was duly forwarded by respondent No.4-Labour Officer, Solan Zone, District Solan to respondent No.3 on 02.08.2023.

2(iii). Respondent No.3 on 19.08.2023, raised a query concerning sanction of study leave to the petitioner as to "Will it be a continuous period of absence of 3 years". Petitioner responded on 19.08.2023, conveying that it will not be a continuous period of absence of three years. That study leave will be availed by him in more than one spell during the period as per the provisions of the Central Civil Services (Leave) Rules, 1972 (in short 'CCS (Leave) Rules').

The petitioner detailed following tentative schedule for availing the leave period:-

(i)	01.09.2023 to 15.01.2024	137 days
(ii)	15.03.2024 to 30.06.2024	108 days
(iii)	02.09.2024 to 15.01.2025	136 days
(iv)	17.03.2025 to 29.06.2025	105 days
(v)	01.09.2025 to 15.01.2026	137 days
(vi)	16.03.2025 to 21.06.2025	98 days

The total of above period comes to 721 days.

2(iv). On receipt of the above clarification from the petitioner, respondent No.1-Secretary (Labour & Employment) to the Government of Himachal Pradesh issued a notification on 29.08.2023 (Annexure P-6), conveying the decision of the State of Himachal Pradesh to sanction study leave in his favour. The notification, being relevant, is extracted hereinafter:-

“NOTIFICATION

*The Governor, Himachal Pradesh is pleased to sanction study leave initially for the period of 245 days (i.e. 01.09.2023 to 15.01.24 = 137 days & 15.03.24 to 30.06.24 = 108 days) or upto 30.06.2024 in favour of Sh. Sant Ram, Labour Inspector, Solan Circle, H.P. for **pursuing three years LLB Course** from Himachal Pradesh University from the session 2023-24 under the provisions contained in sub rule-l(b) of Rule 51 of CCS (Leave) Rules, 1972. The study leave deemed to be commenced as per the study schedule/calendar of the course of aforesaid University, subject to the terms and conditions enumerated as under:-*

- i) That in the event of exigency his study leave deemed to be cancelled.*
- ii) That the applicant will execute a bond as required under sub rule-4 of Rule 53 of CCS (Study leave)*

Rules, 1972 that he will serve the department after completing his LLB Course successfully.

iii) That the study leave is subject to completion of LLB Degree course successfully, failing which the applicant will have to refund all the amount paid to him as leave salary along-with interest.

iv) That the quantum of study leave will not be extended at any condition beyond 24 months and for completion of his course, he will have to apply for other leave as admissible to him.

v) That he will execute a bond prior to proceed on above study leave as laid down in Rules 53(4) undertaking to serve the Government for a period of five years."

Under the aforesaid notification, study leave was sanctioned in favour of the petitioner for pursuing three years LLB Degree Course. The study leave was initially sanctioned for a period of 245 days, i.e. 01.09.2023 to 15.01.2024 = 137 days and 15.03.2024 to 30.06.2024 = 108 days. The above sanction was for two spells indicated by the petitioner in his response dated 19.08.2023. The notification dated 29.08.2023 was also subject to the condition that quantum of study leave will not extend beyond 24 months or in other words, 730 days and for completion of the course, petitioner will have to apply for other leaves as admissible to him (beyond 730 days).

2(v). Petitioner availed study leave for the first and second spells in terms of notification dated 29.08.2023. Respondent No.2 requested respondent No.1 under office

communication dated 29.07.2024 (Annexure P-10) to sanction further study leave in favour of the petitioner w.e.f. 01.08.2024 to 31.12.2024 (153 days) and 18.02.2025 to 31.12.2025 (317 days) as third and fourth spell. This was followed by sanction from respondent No.1 on 06.08.2024 (Annexure P-11), conveying approval for grant of study leave in petitioner's favour for 470 days for the period 01.08.2024 to 31.12.2024 (153 days) and 18.02.2025 to 31.12.2025 (317 days) as per the CCS (Leave) Rules, 1972, subject to the terms & conditions mentioned therein.

2(vi). Respondent-State of Himachal Pradesh issued a notification on 07.08.2024 (Annexure P-13), amending Rule 56 of the Central Civil Services (Leave) Rules, 1972 as under:-

"NOTIFICATION"

In exercise of powers conferred by proviso to article 309 of the Constitution of India, the Governor of Himachal Pradesh is pleased to make the following rules further to amend the Central Civil Services (Leave) Rules, 1972, in their application to the State of Himachal Pradesh, namely:-

Short title and commencement. 1. (1) These rules may be called the Central Civil Services (leave) Himachal Pradesh Amendment Rules, 2024.

(2) They shall come into force from the date of their publication in the Rajpatra (e-Gazette), Himachal Pradesh.

Substitution of rule 56. 2. In the Central Civil Services (Leave) Rules, 1972, in their application to the State of Himachal Pradesh, for rule 56

the following shall be substituted, namely:-

"56. Leave Salary during Study Leave.-

(1) Except as provided in sub-rule (5), during Study Leave availed of outside India, a Government servant shall draw Leave Salary equal to 40% of the pay that the Government servant drew while on duty with Government immediately before proceeding on such leave and in addition the Dearness Allowance and House Rent Allowance.

(2) Except as provided in sub-rule (5), during Study Leave availed of in India, a Government servant shall draw Leave Salary equal to 40% of the pay that the Government servant drew while on duty with Government immediately before proceeding on such leave and in addition the Dearness Allowance and House Rent Allowance as admissible in accordance with the provisions of Rule 60.

(3) Payment of leave salary at the rate under sub-rule (2) shall be subject to furnishing of a certificate by the Government servant to the effect that he is not in receipt of any scholarship, stipend, or remuneration in respect of any part-time employment.

(4) The amount, if any, received by a Government servant during the period of Study Leave as scholarship or stipend or remuneration in respect of any part-time employment, shall be adjusted against the Leave Salary payable under this sub-rule subject to the condition that the Leave Salary shall not be reduced to an amount less than that payable as Leave Salary during half-pay leave.

(5) During the currency of Study Leave

within or outside India on or after 1" day of January, 1996, a Central Government servant shall draw benefits of Revised Pay from the date such revision took place."

By order
Sd/-
Devesh Kumar
Principal Secretary (Finance) to the
Government of Himachal Pradesh."

In terms of the amendment carried out to Rule 56 of the CCS (Leave) Rules, 1972, a government servant during study leave was entitled to draw leave salary equal to 40% of the pay drawn by him before proceeding on study leave. In terms of Clause 1(2) of the notification dated 07.08.2024, the amended Rule 56 was to come into force from the date of its publication in Rajpatra (e-Gazette), Himachal Pradesh. The notification was published in the Official Gazette on 09.08.2024.

2(vii). On the basis of notification dated 07.08.2024, respondent No.3 issued a letter to the petitioner on 13.08.2024 (Annexure P-12), informing him that leave salary during his study leave would now be governed by notification dated 07.08.2024. Petitioner feels aggrieved against the respondents' decision contained in office letter dated 13.08.2024, restricting his salary during the leave period to 40% of the pay, which he drew while on duty

before proceeding on study leave. Hence, he has taken recourse to this writ petition.

3. I have **heard** learned counsel for the parties and considered the case file.

Respondents have defended their decision to pay leave salary to the petitioner for study leave approved in his favour w.e.f. 01.08.2024 onwards in terms of notification dated 07.08.2024, i.e. at 40% of the pay drawn by him while on duty. According to the respondents, petitioner had applied for study leave w.e.f. 01.08.2024 to 31.12.2024 and 18.02.2025 to 31.12.2025, through proper channel, on 08.07.2024. The aforesaid study leave was approved by respondent No.1 on 06.08.2024. The petitioner was informed by respondent No.3 on 13.08.2024 that his study leave has been approved with the directions that salary during study leave will be admissible to him as per government notification dated 07.08.2024. Petitioner had actually availed the study leave w.e.f. 15.08.2024, i.e. after the amendment notification dated 07.08.2024. Leaves have been sanctioned in petitioner's favour for different spells. In the interregnum, notification dated 07.08.2024 has come into force, in terms of which, the petitioner is entitled to 40% of the salary for further study leave. The petitioner

cannot be granted leave salary beyond the rate admissible under the notification dated 07.08.2024, for the study leave availed by him w.e.f. 15.08.2024 to 31.12.2024 and 18.02.2025 to 31.12.2025.

Reliance in support of the above submission was placed upon ***State of Uttar Pradesh and others Versus Rachna Hills and others***², which holds that a candidate has a right to be considered in the light of existing Rules, which implies Rules in force as on the date of consideration. It was contended for the respondent-State that once the amendment notification dated 07.08.2024 has come into force, the petitioner can be paid salary for the remaining period of his study leave only in terms thereof, i.e. 40% and not full salary, which was admissible to him under the un-amended Rule 56 of the CCS (Leave) Rules, 1972.

4. Consideration

4(i). Firstly, it will be appropriate to refer to ***Federation of Indian Mineral Versus Union of India***³, wherein power to give retrospective effect to subordinate

² (2023) 6 SCALE 750

³ (2017) 16 SCC 186

legislation whether in the form of rules or regulations or notifications was dwelled upon as under:-

“21. The power to give retrospective effect to subordinate legislation whether in the form of rules or regulations or notifications has been the subject matter of discussion in several decisions rendered by this Court and it is not necessary to deal with all of them – indeed it may not even be possible to do so. It would suffice if the principles laid down by some of these decisions cited before us and relevant to our discussion are culled out. These are obviously relatable to the present set of cases and are not intended to lay down the law for all cases of retrospective operation of statutes or subordinate legislation. **The relevant principles are:**

- (i) The Central Government or the State Government (or any other authority) cannot make a subordinate legislation having retrospective effect unless the parent statute, expressly or by necessary implication, authorizes it to do so. (*Hukum Chand v. Union of India and Mahabir Vegetable Oils (P) Ltd. v. State of Haryana* (1972) 2 SCC 601).
- (ii) Delegated legislation is ordinarily prospective in nature and a right or a liability created for the first time cannot be given retrospective effect. (*Panchi Devi v. State of Rajasthan*).
- (iii) As regards a subordinate legislation concerning a fiscal statute, it would not be proper to hold that in the absence of an express provision a delegated authority can impose a tax or a fee. There is no scope or any room for intendment in respect of a compulsory exaction from a citizen. (*Ahmedabad Urban Development Authority v. Sharad kumar Jayantikumar Pasawalla and State of Rajashtan v. Basant Agrotech (India) Limited*).”

V. Vincent Velankanni Versus Union of India⁴

holds that if a government order is treated to be in the nature of a clarification of an earlier government order, it

⁴ 2024 SCC OnLine SC 2642

may be made applicable retrospectively. Conversely, if a subsequent government order is held to be a modification/ amendment of the earlier government order, its application would be prospective as retrospective application thereof would result in withdrawal of vested rights, which is impermissible in law. Relevant portion from the decision reads as under:-

“43. If a Government Order is treated to be in the nature of a clarification of an earlier Government Order, it may be made applicable retrospectively. Conversely, if a subsequent Government Order is held to be a modification/amendment of the earlier Government Order, its application would be prospective as retrospective application thereof would result in withdrawal of vested rights which is impermissible in law and the same may also entail recoveries to be made. The principles in this regard were culled out by this Court in a recent judgment of Sree Sankaracharya University of Sanskrit and Others v. Dr. Manu and Another, in the following terms:-

“52. From the aforesaid authorities, the following principles could be culled out:

- i) If a statute is curative or merely clarificatory of the previous law, retrospective operation thereof may be permitted.*
- ii) In order for a subsequent order/provision/ amendment to be considered as clarificatory of the previous law, the pre-amended law ought to have been vague or ambiguous.*

It is only when it would be impossible to reasonably interpret a provision unless an amendment is read into it, that the amendment is considered to be a clarification or a declaration of the previous law and therefore applied retrospectively.

- iii) An explanation/clarification may not expand or alter the scope of the original provision.*
- iv) Merely because a provision is described as a clarification/explanation, the Court is not bound by the*

said statement in the statute itself, but must proceed to analyse the nature of the amendment and then conclude whether it is in reality a clarificatory or declaratory provision or whether it is a substantive amendment which is intended to change the law and which would apply prospectively.”

In the instant case, the amendment notification dated 07.08.2024 does not enjoy retrospective application.

In terms of Clause 1(2) thereof, the same was to come into force from the date of its publication in the Rajpatra, Himachal Pradesh. Admittedly, the notification was published in the Rajpatra on 09.08.2024. Once the study leave stood already sanctioned in favour of the petitioner on 06.08.2024, notification dated 07.08.2024, which came into force from 09.08.2024, cannot be said to be applicable to petitioner's case. The said notification will not govern payment of leave salary during the aforesaid period to the petitioner.

4(ii). Secondly, in the instant case, it was on 29.08.2023 that the respondents had sanctioned study leave in favour of the petitioner for a period of 24 months (730 days) for pursuing three years LLB Degree course). Though the study leave for duration of 730 days (2 years) stood already sanctioned on 29.08.2023, but the leave was being separately sanctioned spell-wise under different

orders passed by respondent No.1 in view of the schedule of LLB Degree course and the different spells of study leave indicated by the petitioner while applying for study leave. The subsequent sanction of study leave by the respondents to the petitioner for pursuing LLB Degree course in different spells will not alter the basic fact that study leave stood already sanctioned in his favour under notification dated 29.08.2023 for 24 months in all, i.e. 730 days. The notification issued on 07.08.2024, amending provisions of CCS (Leave) Rules concerning admissibility of salary during study leave, will have no applicability on leave salary payable to the petitioner. Petitioner is entitled to salary during study leave upto 31.12.2025 in accordance with CCS (Leave) Rules in force as on 29.08.2023, i.e. prior to the amendment notification dated 07.08.2024, that came into force on 09.08.2024.

Here, it will also be relevant to take note of the opinion of the State Finance Department, which is available at Annexure P-23, to the effect that 'petitioner had applied for study leave through proper channel and the Government had sanctioned study leave in his favour on 01.09.2023, i.e. prior to the issuance of Finance Department's notification dated 07.08.2024, hence, the

petitioner is eligible for 100% leave salary during the sanctioned study leave for pursuing three years LLB Degree course'.

5. In view of above discussion, this writ petition is allowed. Impugned decision of the respondents contained in office letter dated 13.08.2024 (Annexure P-12), restricting leave salary of the petitioner during sanctioned study leave to 40% of the pay drawn by him before proceeding on study leave in terms of notification dated 07.08.2024, is quashed and set aside. Petitioner is held entitled to leave salary during his sanctioned study leave in terms of the CCS (Leave) Rules as were in force on 29.08.2023, or in other words, prior to the notification dated 07.08.2024. Arrears of salary in terms of this decision be paid to the petitioner within a period of five weeks from today.

The writ petition stands disposed of in the above terms, so also the pending miscellaneous application(s), if any.

August 13, 2025
Mukesh

Jyotsna Rewal Dua
Judge