

(Reserved)

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

O.A. 61/609/2020



Pronounced on: This the 29th day of June 2021

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. ANAND MATHUR, MEMBER (A)

Amandeep Singh; age 30 years, S/o Late Sh. Bhajan Singh, R/o JMC-1950, Lane No. 2, Lower Laxmi Nagar, Sarwal Chowk, Jammu.

.....Applicant

(Advocate: Mr. Rahul Pant, Sr. Advocate assisted by Mr. S S Somaria)

Versus

1. Union Territory of Jammu and Kashmir through Commissioner/Secretary to Government Skill Development Department Jammu and Kashmir Government Civil Secretariat, Srinagar.
2. Director, Skill Development Department Jammu and Kashmir Government Srinagar.
3. Principal Government Industrial Training Institute Jammu.
4. Indian Institute of Management Jammu through its Director Old University Campus, Canal Road, Jammu.

.....Respondents

(Advocate: Mr. Rajesh Thappa, learned D.A.G.)

(ORDER)

(Delivered by Hon'ble Mr. Rakesh Sagar Jain, Member (J))



Applicant Amandeep Singh has filed the present application seeking the following reliefs:

- A. Set aside impugned order No. DSD/101/Study leave/4678-79 dated 10.08.2020 whereby study leave case of applicant has been rejected
- B. Direct respondent no. 2 to sanction study leave to pursue Ph.D course in Indian Institute of Management, Jammu
- C. Allow applicant to pursue his Ph.D course till the request for study leave is considered by the respondents
Or in alternative
- D. Consider case of applicant for grant of earned leave etc to allow applicant to pursue the Ph.D course.

2. Case of applicant after serving as Superintendent, Industrial Training Institute, Nowshera was appointed as Vice Principal, Government Industrial Training Institute, Jammu and in May 2016 and both posts are equivalent and he is deemed to be confirmed though no formal confirmation order has been passed but even so, his probationary period has not been extended.

3. It is the case of applicant that after completion of Masters in Business Administration through distance mode from Indira Gandhi National Open



University (I.G.N.O.U.), applicant moved an application dated 06.01.2020 before Respondent No. 2 (Director, Skill Development Department) seeking permission for undergoing Doctorate in Management i.e. Ph.D in regular mode for which he had applied in various institutions. The recommendation in favour of applicant by Principal, Government Industrial Training Institute, Jammu on 17.01.2020 is attached as Annexure- A5. (Note: Annexure-A5 is not a recommendation but a communication recording that there is nothing adverse against the applicant and the experience certificate may be issued.) The Government in the Technical Education Department constituted a committee vide G.O. dated 30.08.2017 to examine the study leave cases of Technical Education Department and whose constitution was partially modified vide G.O. dated 17.06.2019. Applicant was selected by IIM, Jammu vide letter dated 22.06.2020 for the course which was to commence from 15.07.2020

4. It is the further case of applicant that not placing his case before the Committee, Respondent No. 2 rejected case of applicant vide impugned letter dated 10.08.2020 (Annexure -A19). The impugned letter reads as under:



“Kindly refer to your letter No. ITI/J/129-30 dated 20.07.2020 addressed to Joint Director, Skill Development Jammu and copy of which endorsed to this Directorate as well regarding the aforementioned subject and to inform you that as per the recommendations of the Joint Director, Jammu, the officer in question has put in six years of service and is still on probation. Regarding the relevance of Ph.D course, he has recommended that in the field it is, the staff pattern is as per DGT norms for which a Superintendent ITI should have maximum qualification as Degree in Engineering with relevant experience in teaching or Supervisory, hence acquiring Ph.D Degree by the incumbent is totally devoid of merits. Besides, there is already shortage of HOIs in Jammu Division it is due to which the training programme is hampering. The Officer be informed accordingly.”

5. From the record it transpires that the applicant awaiting the sanction of study leave, applicant took three months earned leave and joined the course on 15.07.2020.

6. Applicant has challenged the legality of the impugned letter on a host of grounds. One of the grounds is that the case of applicant for study leave was to be placed before the Committee but that instead of placing the case before the Committee, Respondent No. 2 without having any jurisdiction



rejected the case of applicant. This plea finds mentioned in Paragraph No. 5 (b) and (e) of the O.A. No rebuttal to this plea is forth coming in the objections filed by the respondents. However, in the additional objections filed by the respondents, reliance has been placed upon the Minutes of Meeting dated 15.02.2020 of the Reconstituted Committee (Annexure R4) which took the decision that since the applicant acquired higher qualification without permission, be asked to explain their position regarding violation of rules. Respondents take the plea that the case of applicant falls within this category. The applicant left the course and joined duties. (Annexure R5).

7. The limited question involved in the present case is whether respondent No. 2 had competency to reject the case of applicant for study leave. Looking to the material on record, it is clear that respondent No. 2 had no competency or jurisdiction to assume the functions of the Committee. As per the Minutes of Meeting dated 15.02.2020 relied upon by the respondents, all the incomplete case were to be re-examined by concerned authority. There is no specific mention in the Minute that the applicant acquired higher qualification without permission of competent authority. In fact, the Committee took the following decision for disposal of the applications:



“(a) That all in-complete cases shall be got re-examined by the Heads of the Institutions/DDOs in light of the Study Leave Rules, 1979, and the standing instructions of General Administration Department and the Finance Department issued vide SRO-274, before the same are forwarded to the administrative department for action.

(d) Any case complete in all respect in light of the study leave rules and the standing instructions of the GAD and the Finance Department shall be referred to the administrative department for further action.”

8. The facts emerging in the present O.A shows there seems to be a confusion in the Administration as to which authority is to give the sanction for study leave to its employees. But one thing is clear that respondent No. 2 has no competency or jurisdiction to dispose of application for study leave. Learned DAG has been unable to show the rule under which the respondent No. 2 has the competency to take the ultimate call on the application for study leave. In the present case, respondent No. 2 has assumed jurisdiction when none exists and proceeded to pass the impugned order which is a complete null and void order and non-application of mind.



9. In view of the facts and circumstances of the case, we set aside the impugned order No. DSD/101/study leave/4678-79 dated 10.08.2020 and direct the respondent No. 1 to get the application for study leave filed by the applicant disposed by the competent authority(s) in accordance with rules within a period of one month from today. Learned DAG shall inform the respondents about the direction given in this order today itself. O.A. is accordingly disposed of. No costs

(ANAND MATHUR)
MEMBER (A)

Arun/-

(RAKESH SAGAR JAIN)
MEMBER (J)