

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

**Pronounced on : 13.03.2019
Reserved on : 22.02.2019**

**OA No. 060/00117/2019
MA. No. 060/00351/2019**

**CORAM: HON'BLE MR.SANJEEV KAUSHIK, MEMBER(J)
HON'BLE MRS. P. GOPINATH, MEMBER(A)**

Gaurav Gangwar son of Sh. Hari Nandan Singh Gangwar, aged 46 years, resident of House No. 5022, PEC Campus, Sector 12, Chandigarh presently working as Assistant Professor (Group 'A' post), Chandigarh College of Architecture, Sector 12, Chandigarh UT-160 012.

.....Applicant
BY ADVOCATE: **Sh. S.S. Pathania**

Versus

1. Administrator, Union Territory, Chandigarh through Advisor to Administrator, UT Secretariat, Sector 9, Chandigarh – 160 009.
2. Secretary Technical Education, UT Administration, Sector 9, Chandigarh – 160 009.
3. Principal-cum-HOD, Chandigarh College of Architecture, Sector 12, Chandigarh (U.T) – 160 012.

.....Respondents
BY ADVOCATE: **Sh. G.S. Chhina**

ORDER

MRS. P. GOPINATH, MEMBER(A):-

1. Applicant in the OA seeks quashing of order dated 17.01.2019 granting him six months' study leave from 01.07.2019 to 31.12.2019 and alternately seeks a direction to grant him one year of study leave instead.
2. Applicant argues that as per AICTE notification, two/three years study leave for Masters/Ph.D Programme may be granted, of which two years may be granted in the first instance, extended by one year thereafter.

As per UGC Guidelines, maximum of five years of study leave can be granted in the entire service, not more than three years in one spell.

3. Applicant admits that his service conditions are governed by Punjab Civil Service Rules which stipulate a limit of 24 months in the entire service, and that the maximum amount of study leave which may be granted to an employee should not ordinarily exceed 12 months. Hence, the above AICTE notification or UGC guidelines are not applicable to him.

4. Applicant teaches Undergraduate (UG) classes. Intake of students by the college for UGs is 40. The requirement of faculty for such an intake as per subject and classes is 12 teachers. Against this requirement of 12, there are 10 faculty members on regular basis and seven on contract basis. In support of his contention, applicant cites the case of one Parmeet Singh Bhatt who was sanctioned study leave of two years in the year 2002 when there were 15 faculty members. He cites other examples of persons being sanctioned study leave of one year.

5. The respondents in the reply statement submit that the applicant without availing the departmental remedies has chosen to directly approach the Tribunal. He has not submitted any representation before the competent authority regarding his prayer in this OA. Hence, he has not exhausted all remedies available to him before approaching this Tribunal.

6. The respondents also argue that the applicant has not disclosed that when study leave was granted to him in the year 2014, it was specifically mentioned in his case that the study of students should not suffer on account of Ph.D work of the applicant. The respondents submit that granting leave is not an automatic process and the same is subject to facts and circumstances

of academic commitments of the institution vis-a-vis the study curriculum, in each case. In the present case, the grant of a longer period of leave to the applicant would result in hampering the teaching work as the other faculty members on whom the applicant's work would be loaded, are already overloaded with work. The load of work in any academic semester is not uniform and may vary according to teaching assignments and thesis students assigned.

7. The respondents also bring to notice that a thesis semester is underway. The faculty strength of the college is one Professor against three sanctioned posts, two Associate Professors against six sanctioned posts and five Assistant Professors against 12 sanctioned posts. Seven Assistant Professors are working on contract basis for a period of one year. Applicant is an Assistant Professor and the shortage of faculty is maximum at the level of Assistant Professor. The orders sanctioning the applicant's leave specifically mentions that no substitute would be provided against the study leave availed by the applicant.

8. A thesis semester is underway and the grant of a longer period of leave would adversely affect the thesis programme of students. It is also argued that the grant of leave to various professors cannot be compared as it depends on the thesis/classes underway and the commitment to academic duties of the Assistant Professors, to which group the applicant belongs.

9. The applicant does not have a case that his leave has not been granted at all. The applicant's case is that as against the grant of six months, he would like to be granted 12 months of study leave and during arguments, the counsel also argued for grant of study leave with immediate effect.

Though the applicant has cited UGC norms, he is governed by Ministry of Human Resource Development/AICTE norms. The applicant is not working in an academic institution which follows the UGC guidelines. The AICTE norms placed on record by the applicant as Annexure A-14, stipulate that while granting study leave “care should be taken to see that academic work is not disturbed”.

10. Two Professors including the applicant applied for one year of study leave for the same period. Due to shortage of regular faculty, i.e. as against 12 posts only 5 regular faculty members are available, sparing two faculty members simultaneously would affect the academic work of the Institution. In view of this position, both the Assistant Professors including the applicant were granted study leave for a period of six months each, in different spells, not overlapping. The colleague of the applicant, being senior and on a second extension for completing Ph.D was given study leave in the first half of the year from 01.01.2019 to 30.06.2019 on account of the fact that his second extension for completing Ph.D which would expire on 24.12.2019. The applicant was granted study leave for the second half of the year from 01.07.2019 to 31.12.2019. The Assistant Professor granted leave in the first half of the year had already sought two extensions of one year each for completing his Ph.D and hence he had been accorded priority of the first half of 2019, so that his Ph.D could be completed.

11. We have heard the learned counsel for the parties and have carefully gone through the pleadings on record.

12. We find that the respondents have acted in the best interest of both the educational institution and the students, the teaching commitments

of the academic faculty, and Sh. Manoj Kumar, Assistant Professor who had already sought two extensions for completing his Ph.D thesis and was required to be accorded priority. The respondents had also kept in mind that the maximum shortage of faculty was at the level of Assistant Professor wherein against 12 sanctioned posts, only five regular faculty members are available. It was also mentioned during the course of arguments that the contract professors are not generally awarded Ph.D work and such work was assigned to the regular faculty only.

13. Moreover, the applicant was granted permission as early as 04.08.2014 for enrolment of a Ph.D in Architecture. The applicant had been registered for the Ph.D programme by Punjab Technical University on 20.08.2014. Hence, it is not a case where the applicant did not have sufficient time to complete his study. The request for the study leave by the applicant cannot be considered in isolation. While granting the same, the academic institution is required to look into various circumstances including whether the students would be affected adversely by the study leave of the Assistant Professor, whether leave would affect the completion of the semester, whether the course of study of the students to be covered during the period of study leave of the applicant would be adversely affected, and whether in view of the acute shortage of Assistant Professors the request of any other person for study leave was more urgent than the applicant. Faculty in a teaching institution has the responsibility of covering the syllabus of the students being taught and also their personal advancement by acquiring higher qualifications. Any one of the two cannot be pursued at the cost of the other.

14. In this matter, all the above points go against the applicant. As against five regular faculties, if two members are simultaneously given study leave from January/February onwards, the studies of the regular students plus Ph.D students would be adversely affected. Whereas the applicant would have a right to pursue his Ph.D thesis, it is required to be borne in mind that the institution where he is teaching, also requires his services and that the academic year of the students cannot be adversely affected.

15. The respondents have made the best of a situation by granting two six-monthly period of leave in the first half and in the second half to the colleague of the applicant and the applicant respectively. Whereas there had been instances in the past where one year leave had been granted, that may have been in better times and circumstances, with better regular faculty strength. Whereas we would advise the respondents to ensure that the regular faculty strength is maintained in full so that both the students' requirement and the requirement of the faculty are met, this would be action for the future. In the present circumstances, we are not in a position to grant any relief to the applicant at the cost of the study of the students or the academic year. Neither would it be advisable that the other faculty members of the institution be crowded with more teaching assignments, nor can the students be affected by depleting the faculty hours which is much required in their academic interest. The students have also to finish the academic syllabus in the prescribed semesters.

16. We find that both the faculty members including applicant have been treated equally with grant of six months leave each. The only preference given is that the one faculty member has been granted leave in the

first half of the year as he had already sought two extensions to complete his Ph.D. Hence, we see nothing prejudicial in the grant of leave to the applicant, and we also feel no need to interfere in the matter of grant of study leave to applicant.

17. OA, being devoid of merit, is dismissed. There shall be no order as to costs.

**(P. GOPINATH)
MEMBER (A)**

**(SANJEEV KAUSHIK)
MEMBER (J)**

Dated:
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