

**Court No. - 35**

**Case :-** WRIT - A No. - 2944 of 2022

**Petitioner :-** Mukesh Kumar

**Respondent :-** State Of U.P. And 4 Others

**Counsel for Petitioner :-** Yogendra Singh Bohra

**Counsel for Respondent :-** C.S.C., Rajesh Kumar Srivastava

**Hon'ble Ajit Kumar,J.**

Heard learned counsel for the parties.

In compliance of my last order dated 30th May, 2022, Executive Engineer, Electricity, Microwave & Telecommunication Division, UPPCL, Victoria Park, Meerut, Mr. Sandeep Singh Kushwaha is present before this Court alongwith affidavit of compliance.

This writ petition was filed by the present petitioner for a direction to respondent nos. 3 and 4 to grant medical leave to the petitioner from 20th April, 2021 and earned leave from 07th May, 2021 to 14th May, 2021, the salary for the period of two days in January i.e. 5th January, 2021 and 7th January, 2021 and two days of February i.e. 4th February, 2021 and 12th February, 2021 was prayed for and further prayer was made to the effect that petitioner be paid salary and be permitted to sign attendance register while working on the post of Technician Grade-II and that this matter was entertained and this Court had passed an order on 09th March, 2022 to the following effect:

*"Let the Executive Engineer, Electricity Microwave & Telecommunication Division, U.P. Power Transmission Corporation Ltd., Meerut file his affidavit before this Court as to under what circumstances, salary of the petitioner has been denied though he has been permitted to work.*

*The question of his being absent in past would be of consideration to initiate appropriate proceeding but till date if respondents have not proceeded with and the petitioner has not been placed under suspension and so under such circumstances, salary cannot be denied to the petitioner. It is made clear that since the proceedings are not drawn till date, this order cannot be taken as a tool to initiate proceedings against the petitioner.*

*The appropriate affidavit be filed by the next date fixed, failing which the concerned Executive Engineer be present before this Court.*

*Put up again as fresh on 22.03.2022. "*

On the next date on 30th March, 2022 when the matter was taken up, the petitioner stood transferred from Meerut to Varanasi and was given posting at Prayagraj and there petitioner submitted his joining, however, question remained regarding payment of salary for the period prayed in question and adjustment of medical leave and earned leave against period for which complaint was that

petitioner did not report for duty.

The respondents settled all the issues, but the compliant remained at the end of the petitioner that medical leave as desired was not adjusted and whole period has been adjusted towards earned leave inasmuch as salary for the period running from 1st July 2021 till 30th March, 2022 was not paid. This Court passed a detailed order on 30th May, 2022 taking conduct of the respondent to be in conflict with direction issued by this Court. Accordingly, Managing Director of U.P. Power Transmission Corporation Ltd. Shakti Bhawan as well as Executive Engineer were summoned to appear before this Court to explain their conduct.

Today an affidavit has been filed on behalf of the Managing Director U.P. Power Transmission Corporation Ltd. Shakti Bhawan seeking exemption from personal appearance and prayed for some further date for personal appearance as he was having very important meeting of U.P. Rajya Vidyut Utpadan Nigam Ltd. and also U.P. Power Transmission Corporation already scheduled for 31st May, 2022. He has also expressed unconditional apology for inconvenience caused to the Court.

In the Compliance affidavit filed by the Executive Engineer, a complete chart has been appended showing payment of regular pay for the period in question and unconditional apology has been tendered for the past conduct which it is stated happened due to inadvertent mistake. A cheque of Rs. 5, 00,334/- dated 30th May, 2022 has been handed over to the learned counsel for the petitioner towards salary for the period in question.

Only two grievances now remained to be addressed as per submission advanced by learned counsel for the petitioner: **(a)** firstly, medical leave ought to have been given preference to earned leave in respect of 15 days period from 20th April, 2021 to 6th May, 2021. The Executive Engineer Mr. Sandeep Singh Kushwaha who is present in Court fairly admits that he would be giving positive consideration in doing the needful in the matter within next two weeks and; **(b)** in so far as grievance of the petitioner not being given salary while posting at Prayagraj, owing to the fact that service records were still not transmitted from Meerut to Prayagraj.

Mr. Sandeep Singh Kushwaha undertakes to transmit the records within two weeks time and it is expected that salary of the petitioner including arrears, if any, would be cleared in the next 20 days.

Since Mr. Sandeep Kumar Kushwaha has shown his sincerity in appearing before this Court and clearing dues and also addressing grievance of the petitioner in a positive way, the Court is taking lenient view of the matter and exonerating him not only from the proposed action, but

also exempting him from personal appearance in the matter.

As now most of grievances of the petitioner has stood redressed and it is undertaken by the respondent concerned that remaining two grievances will be addressed and positive action will be taken, no further action is required to be taken in the matter. Personal appearance of Managing Director, U.P. Power Transmission Corporation Ltd. Shakti Bhawan is also exempted.

The writ petition stands disposed of with the aforesaid observations and direction and consigned to records.

**Order Date :- 31.5.2022**

Sanjeev