

PANJAB UNIVERSITY, CHANDIGARH

Minutes of emergent meeting of the Syndicate held on **1st September, 2022 at 04.00 p.m.** through online mode, at Panjab University, Chandigarh.

PRESENT:

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|-----|------------------------------------|-----|----------------|
| 1. | Professor Raj Kumar | ... | (in the Chair) |
| | Vice Chancellor | | |
| 2. | Dr. Balbir Chand Josan | | |
| 3. | Shri Daves Moudgil | | |
| 4. | Professor Devinder Singh | | |
| 5. | Professor Hemant Batra | | |
| 6. | Dr. Jagtar Singh | | |
| 7. | Dr. Mukesh Arora | | |
| 8. | Dr. Neeru Malik | | |
| 9. | Professor Prashant Gautam | | |
| 10. | Shri Rajiv Kumar Gupta | | |
| | Director, Higher Education, Punjab | | |
| 11. | Dr. Rupinder Kaur | | |
| 12. | Professor Sukhbir Kaur | | |
| 13. | Principal S.S. Sangha | | |
| 14. | Shri Satya Pal Jain | | |
| 15. | Professor Savita Gupta | | |
| 16. | Professor Yojna Rawat | | |
| 17. | Professor Yajvender Pal Verma | ... | (Secretary) |
| | Registrar | | |

Dr. Jayanti Dutta and Director, Higher Education, U.T., Chandigarh, could not attend the meeting.

At the outset, the Vice Chancellor wished good afternoon to each one of the esteemed members of the August House and welcomed them to the meeting. He said that this is an emergent meeting to consider a very important issue.

- 1.** Considered earned leave and encashment in view of Contempt Notice No.COCP-1588-2020 and COCP-194-2021.

It was informed that on 30th June 1989, the Syndicate decided to adopt the leave rules, including encashment of leave of Punjab Government and the leave rules of Punjab Government were notified by the University on 9th of August 1989, and the amendments in the leave regulations and rules were made accordingly. Thereafter, on 1st of September 1989, the encashment of leaves for both teaching and non-teaching staff were increased from 180 days to 300 days. On 30th October 2011, the Audit raised objection that in Panjab University Calendar, Volume I, 2007, there is a provision of accumulation of earned leaves only up to 180 days, hence; the benefit of encashment of only 180 days could be given to the teachers, and not more than that. Thereafter, the relevant regulation was amended by the Regulations Committee, Syndicate and Senate and sent to the Government of India for approval. The Government has given approval for accumulation and encashment of 300 days to the faculty members, in principle. Subsequently, there was some objection from the Audit as to from which date the amended regulations are to be implemented. On 8th February 2021, the Government of India in its official Gazette notification stated that the amended regulation is to be implemented from the date of notification. People, who were not covered under the amended regulation, filed writ petition in the Punjab & Haryana High Court and on the

undertaking given by the Counsel of Respondent, the Court ordered that the benefit of 300 days earned leave be given to the petitioners.

The Vice Chancellor said that contempt notices have been issued to Finance Secretary, Union Territory Administration, Secretary, Ministry of Human Resource & Development (MHRD), and certain others. Now, the Hon'ble members should give their valuable suggestions so that the University could resolve the issue.

Professor Devinder Singh stated that this issue was pending from the year 2011, when the Audit did not allow encashment of earned leave for 300 days and the affected teachers had to move to High Court for resolving the same, and the High Court issued orders to the University from time to time but those were not followed. In the end, a notification was issued by Ministry of Human Resource & Development (MHRD) and on the basis of that notification, the lawyer of the University had made a statement in the High Court that a notification had been received by the University, and on the basis of that the payment of earned leave encashment could be made. He made a commitment in the Court and on the basis of that commitment; the Court had passed the orders. The court issued the orders in the year 2020, but the same remained in papers as no action was taken by the University. Thereafter, the contempt had been filed, and now the Court has given them 3 weeks' time. Contempt Notice has been issued to the Hon'ble Vice-Chancellor and Secretary, Ministry of Human Resource & Development and Finance Secretary to make their physical presence in the Court, which is not a good sign on the working of the University. The audit objection should have been removed earlier, but delay occurred due to the involvement of the Government, University and the Finance Department as the circular for amendment in the Regulations to this effect had been issued very late. This delay became a reason for teachers to suffer a lot and they were forced to file the contempt petition. For this, the working of the administration is under question as to which direction, the University Administration is moving. If there is any technical hitch in allowing the earned leave encashment of 300 days, then it should be looked into by them. He is of the considered opinion that as per the orders of the Court, the encashment of 300 days of earned leave should be allowed. When the lawyers of the Panjab University had made a statement in the Court to allow the encashment of 300 days of earned leave and on the basis of the statements made by the lawyers, the Court had issued the orders accordingly; then, the University would have to comply with the orders of the Court. With regard to one technical hitch that the leave encashment of teachers is governed under the regulations of the U.G.C., the same could be resolved at a later stage. To avoid the contempt notice and follow the orders of the Court, payment of leave encashment of 300 days should be made immediately. Another issue which he would like to share with the House is that it is a situation of displeasure for the Secretary, Government of India (to whom the University would have to approach for the functioning of the University), that he (Secretary) had been ordered by the Court for his physical presence. He asked why such type of situation had come, when the CWP had been filed from the last few years, and the orders on the CWP had also been issued quite before and the contempt plea was also pending from the last 2 years, the University had not taken any cognizance of these orders and pleas. Now the situation has come when the Head of the University i.e., the Vice-Chancellor has been asked to make his physical presence in the Court. This issue should minutely be got examined by the Registrar and the detailed information in chronological order should be obtained from the concerned department as to why these orders had not been complied with, which caused the situation of displeasure to be faced by the Government. He urged that this should be looked into and got examined in detail and it should be got ensured that in future such type of contempt petitions should not be filed. He suggested that to avoid such a situation in the future, this case should be treated as benchmark and the office may be instructed/guided in such a way that such type of files should be dealt with immediately and office should keep the University updated about such cases so that the system of the University could work in a smooth manner. He urged that pending technicalities should be dealt with at a later stage and

the orders of the courts regarding encashment of 300 days of earned leave should be complied with immediately as it is the condition which has been mentioned in the contempt petition that if the payment of 300 days of leave encashment is made to the petitioners, no physical presence of the Vice-Chancellor is required.

Dr. Mukesh Arora said that he fully agreed with the viewpoints expressed by Professor Devinder Singh that petitioners should be given the benefit of encashment of earned leave for 300 days as per the decision of the Court. He requested that right of every person whether he/she is petitioner or not, should be given to him/her.

Professor Sukhbir Kaur, endorsing the viewpoints expressed by Professor Devinder Singh, said that teachers of the University had to face a lot of harassment from the last several years even though the enhanced leave encashment was their legal right. The teachers should have full faith that they would get justice from the administrative system. In spite of issuance of so many notifications on the issue, payments which were due to the teachers have not been made. As such, there is a dire need to identify as to where the lapse occurred. Such type of lapses adversely affected the system of the University, especially the Legal Cell. It is her personal experience that whenever legal notices and petitions are received, a lot of delay takes place as the functioning of the University is at low pace. For getting their due rights from the University, the teachers should not be compelled to knock the doors of the Court. The contempt notices issued (in the year 2020 and 2021) to such high profile Officers, is really a matter of concern, which had affected the image of the University. The relief to the teachers should immediately be given and the payment be made to them. After the payment of the due amount to the teachers, the process of making amendments in the Regulations should be completed. She suggested that encashment of earned leave, in accordance with the revised Regulations (300 days) should be allowed to all the teachers irrespective of whether they are petitioners or not. At the same time, it should be enquired as to on whose part, the lapse took place, due to which the Ministry of Human Resource & Development and other Officers are annoyed with them.

Dr. Neeru Malik, endorsing the viewpoints expressed by Professor Devinder Singh, Dr. Mukesh Arora and Professor Sukhbir Kaur, said that she would like to make a request to the House that this benefit should be given to all the petitioners as well as the non-petitioners. As said by Professor Devinder Singh, if they released the benefit to the petitioners, they are not required to appear in the Court physically on 9th of September 2022. Hence, the payment of leave encashment should be released at the earliest.

Principal S.S. Sangha said that he is of the considered opinion that the benefit should be given to all the eligible teachers. In future, justice should be given to all the teachers irrespective of whether they are teachers of the University or of the affiliated Colleges.

Shri Satya Pal Jain stated that none would have any objection, if the benefit(s) is/are given to the teachers, but 2-3 serious legal issues are involved in this matter. First of all, the judgement, under which the contempt notice had been issued, is of dated 23rd of January 2020, i.e., almost two and a half years before. It has nowhere been mentioned as to what is the direction in the judgement, or the judgement has been given on the basis of consent or after arguments. Whether the judgement is of Single Bench or Double Bench? Had all these facts been mentioned in the note, it would have been better. What emanates from the statement given by Professor Devinder Singh is: perhaps, the Court had passed orders on the basis of consent. Secondly, the notification of 8th February 2021 says that the accumulation of Earned Leave had allowed to be enhanced from 180 days to 300 days and it has also been written in the notification that the enhancement will come into force from the date it is published in

the official Gazette. If the amendment of Regulation relating to enhancement of earned leave has been approved and published in the official Gazette on 8th of February 2021, it is to be implemented from 8th of February 2021. He would like to know who permitted the implementation of the decision before 8th of February 2021. Thirdly, whether they have challenged the orders of 23rd of January 2020 in any Court of Law for review? What they have done in this regard should have been put up before the Syndicate. If they allowed the payment, and tomorrow the Government of India objected to it saying that the University could not implement it before 8th of February 2021, then the liability would be on the members who are involved in this decision. What the financial liability is, should have also been placed before the Syndicate. As such, the note is very vague, because the facts have not been provided, and only the orders of the High Court and two letters of Government of India had been provided. It should be explained as to where the orders of Punjab & Haryana High Court dated 23rd of January 2020 are. Secondly, have the orders been passed on consent or these are orders after taking into consideration the arguments of both the sides. What steps have been taken to challenge those orders? If they did not take any decision for two years, contempt would definitely be there. Moreover, if someone had given the consent, with whose permission he/she had given the consent and on what basis the consent had been given. Hence, this matter needed to be examined thoroughly. He suggested that 2-3 persons should sit together to examine this whole issue. It should also be assessed as to what would be the financial liability and on whom it would be. Whether the financial liability would be borne by the Government or the University? All these issues should be brought before the Syndicate.

Professor Hemant Batra said that he fully agreed with the Judgement given by the Court as also with the viewpoints expressed by the members. The issue(s) raised by Shri Satya Pal Jain is/are matter of worry for all of them, but at the same time, looking at the interest of the faculty as well as of the University, they needed to look for a solution. Hence, they needed to look for a path, which the University could tread and there is no harm done to the University. He felt that this should be implemented, and at the same time, take care that there is no financial burden that they all are affected. As such, a middle path should be taken, so that they could be saved of contempt of court.

Professor Yojna Rawat said that this is a very serious issue. She suggested that, in future, they should be careful towards such issues, as the contempt of Court might tarnish the image of the University, especially when the matter related to the rights/interests of the persons. One approached the court only when his/her rights are adversely affected. In this case, the teaching faculty has been adversely affected. Hence, the issue should be seen from this angle, and whatever is due to them, should be given to them at the earliest. It should also be ensured that, in future, such mistakes do not occur and if occur, accountability should be fixed irrespective of whether the mistake is on the part of the Audit or University employees as this is a big lapse.

Concluding the discussion, the Vice Chancellor said that he has heard the opinion/observation of all the members, and he fully agreed with the observations made and concerns shown by them to the University Administration.

RESOLVED: That in terms of principle decision of the University vide Syndicate meeting dated 30.06.1989, Para 11, (i.e. adoption and implementation of Rules of Punjab Government and approval given by Ministry of Human Resource & Development (MHRD), Government of India, vide circular dated 12.12.2019 regarding encashment of Earned Leave at the time of retirement) all the teachers, be allowed accumulation & leave encashment for such days as is applicable for the employees of Punjab Government from time to time.

RESOLVED FURTHER: That –

- (i) the payment to all the affected teachers (in whose case leave encashment was restricted to 180 days), be released for up to 300 days in the light of the essence of the Orders of Hon'ble Punjab & Haryana High Court dated 18.08.2022 in *COCp-1588-2020, Lalit Kumar Bansal and others VS Karamjit Singh and others and in COCP-194-2021, S.S. Bari and others Vs Raj Kumar and another and CWP No.20928 of 2014 and CWP No.1196 of 2020 dated 18.08.2022 and circular dated 12.12.2019*;
- (ii) a report in this regard be submitted to the Secretary, Ministry of Education, Government of India;
- (iii) to fulfill the technical requirement *ex-post facto* enabling amendment in Leave Regulations, be carried out; and
- (iv) the Vice-Chancellor be authorized to take necessary action as deem appropriate to implement the above decision.

Y.P. Verma
Registrar

Confirmed

RAJ KUMAR
VICE-CHANCELLOR