

SUNIL KUMAR AND OTHERS
Versus
THE STATE OF HP AND OTHERS

CWP-18213 of 2025

31.12.2025

Present: Mr. Vinod Chauhan and Ms. Nandita, Advocates, for the petitioner.

Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General, with Mr. Ravi Chauhan and Mr. Anish Banshtu, Deputy Advocates General, for State.

Mr. Nitin Thakur, Advocate, for respondent No.3.

CWP-18213 of 2025 & CMP-28087 of 2025

Precisely, the question, which needs to be determined in the case at hand is “*whether a probationer is entitled to avail vacations or not?*”

2. Having taken note of aforesaid grouse of the petitioner, this Court passed detailed order dated 24.12.2025, which reads as under:

“Though respondent-State has filed reply, but the same is not on record. Registry to trace and place the same on record, if in order.

During proceedings of the case, Mr. Vishal Panwar, learned Additional Advocate General, while making this Court peruse letter dated 29.02.2020 issued by the Director, Technical Education, Himachal Pradesh (annexed with the reply), states that no leave shall be admissible to Government servant, who is not a permanent employee or quasi-permanent employee, in respect of the first year of his service. He further states that since petitioner is still on probation, he cannot avail any vacation, however, having carefully perused aforesaid communication, this Court is persuaded to agree with learned counsel representing the petitioner that same is not applicable in the case of petitioner,

rather that is with regard to earned leave under Rule 28 of CCS (Leave) Rules, 1972.

Faced with aforesaid situation, learned Additional Advocate General prays for and is granted further four days' time to have instructions that under what provision of law, a probationer is not entitled to avail vacations, not earned leave.

List on 30.12.2025.”

3. In terms of aforesaid order, though Mr. Rajan Kahol, learned Additional Advocate General, placed on record instructions dated 30.12.2025, issued under the signatures of Director, Technical Education, Vocational & Industrial Training, Sundernagar, but perusal thereof nowhere suggests that same is in conformity with the observations made in the order dated 24.12.2025.

4. Vide communication dated 30.12.2025, again an attempt has been made at the behest of respondents to state that in terms of Rule 28 of the CCS (Leave) Rules, 1972 and the audit interpretation, no right, much less any vested or constitutional right, accrues in favour of the petitioner to avail vacations.

5. However, this Court is of the view that vide order dated 24.12.2025, this Court had clarified that Rule 28 of the CCS (Leave) Rules, 1972, sought to be invoked in the case at hand is not applicable, because that pertains to earned leave, however, in the case at hand, question is with regard to entitlement of vacations to the probationers.

6. Day before yesterday, learned counsel representing the petitioner placed on record communication dated 26.11.2025 received from Nodal Officer (General Branch), Directorate of School Education, Himachal Pradesh, who while imparting information under the Right to Information Act, categorically apprised petitioner as well as other similar situate persons that all the teachers irrespective of their category or status (under probation or after probation) working in the Department of Education, Himachal Pradesh, are entitled for vacation.

7. Though having perused aforesaid information received under the Right to Information Act, Mr. Rajan Kahol, learned Additional Advocate General, attempted to argue that Rules of Technical Education are different, but such prayer of him deserves outright rejection for the reason that much stress has been laid on Rule 28 of CCS (Leave) Rules, 1972, by the respondents while opposing the claim of the petitioner. There is no specific reference to the Rules, if any, framed by the Department concerned with regard to vacation.

8. In view of the above, this Court is persuaded to pass interim order to the effect that petitioner herein shall be entitled to vacation, which have started w.e.f. 27.12.2025 to 18.01.2026, subject to the outcome of the present petition. Ordered accordingly.

List on 16.03.2026, on or before which date,
respondents may file detailed reply.

December 31, 2025
(Rajeev Raturi)

**(Sandeep Sharma),
Judge**