

Court No. - 7

Case :- WRIT - A No. - 9623 of 2023

Petitioner :- Ramesh Kumar Sobh Nath Mishra And 2 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Dairy
Development Deptt. Lko. And 2 Others

Counsel for Petitioner :- Pradeep Kumar Tripathi

Counsel for Respondent :- C.S.C.,Shanker Lal

Hon'ble Abdul Moin,J.

1. At the very outset, learned counsel for the petitioners prays for and is permitted to implead 'Dugdh Utpadak Sahaik Sangh Limited, Prayagraj, through its General Manager' as respondent no.4 during course of the day.

2. Heard learned counsel for the petitioners, learned Standing Counsel for respondent no.1, Sri Pankaj Patel, learned counsel for respondents no.2 and 3. Sri Pankaj Patel, learned counsel, also accepts notice for respondent no.4.

3. With the consent of learned counsels for the parties the writ petition is being decided finally.

4. Present petition has been filed by the petitioners alleging that despite the petitioners having retired, the leave encashment benefit to which the petitioners are entitled has not been paid.

5. Learned counsel for the respondents, on instructions, argues that certain audit objections were existing as against the petitioners which were not removed, as such, the amount of leave encashment has not been paid to the petitioners.

6. There is no statutory provision shown at the bar entitling respondents to withhold the leave encashment benefit.

7. Considering the fact that there is no statutory powers vested with the respondents to withhold the payment of leave encashment benefits, the action of the respondents in withholding the benefits is clearly arbitrary and contrary to mandate of Article 300A of the Constitution of India.

8. The writ petition is **allowed**.

9. Respondents are directed to pay the leave encashment benefits to the petitioners alongwith interest at the rate of 7%

per annum from the date of retirement till actual payment/realisation within four months.

Order Date :- 16.12.2023

A. Katiyar