IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.18652 of 2015
Date of decision:2.11 2015

Secretary, Punjab State Electricity Board & anr. … Petitioners

Versus

Presiding Officer & anr. ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Promila Nain, Advocate,
for the petitioners.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

The Punjab State Power Corporation Limited/Punjab State Electricity Board has approached this Court in challenge to the order dated February 5, 2015 passed in application filed by the respondent-workman under Section 33C(2) of the Industrial Disputes Act, 1947. The claimant is the widow of Bua Singh, Lineman, who was dismissed from service vide order dated March 19,1998. He has passed away and is represented by his widow to recover his estate. She claims money due under various heads including solatium, ex-gratia, leave encashment, Group Insurance Amount, Welfare Fund, Family Pension. G.P. Fund., BCR making a total sum of Rs.16,87,000/-. The Labour Court in due consideration of the matter and after appreciating the evidence led by the parties on record has allowed the application only to the extent of award to GPF amount and leave encashment to the widow. No other amount has been granted by the Labour Court in view of the order of dismissal which deprives the workman of several rights except those which were personal to him and represent income earned, that is, GPF and leave encashment. These amounts have nothing to do with punishment by way of disciplinary action.

Ms. Promila Nain appearing for the Board has raised an argument with respect to leave encashment to submit that it amounts to terminal leave and cites Rule 8.75 of the Punjab Civil Services Rules which rules are said to have been adopted by the Board/Corporation. She also points out to Note 2 beneath Rule 8.75(2) of the CSR which prescribe that terminal leave under the law will not be admissible in case where the employee concerned has been dismissed or removed from service. However, a closer look at Rule 8.75 shows that it deals with temporary employees (other than those employed on contract basis) and arises in situations on account of retrenchment or on abolition of posts before reaching the age of superannuation even when it is not applied for and refused in the public interest. Thus, there is a clear difference between 'terminal leave' and 'leave encashment' and for this reason the argument is not tenable. As far as GPF is concerned, she submits that even that amount does not deserve to be given to the widow of the dismissed workman on principles of equity, justice and good conscience. It is well settled that amounts lying in the General Provident Fund belong to the workman and are property under Article 300A of the Constitution of India and not a bounty. This amounts represent money earned by dint of labour and cannot be touched even with the bargepole.

For these reasons interference is not warranted in the order passed by the Labour Court, Gurdaspur, and the petition is, consequently, dismissed.

(RAJIV NARAIN RAINA)
JUDGE

2.11.2015
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