

CWP-9499-2011

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-9499-2011 (O&M)

Date of decision : 08.07.2015

Mahender Singh

...Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Jagbir Malik, Advocate,
for the petitioner.

Mr. Mohnish Sharma, Advocate,
for the respondents.

JITENDRA CHAUHAN, J.

By way of the present writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has sought quashing of the impugned instruction dated 02.09.2005 (Annexure P-1) to the extent it restricts the Breakage/Shortage to 5% of the existing cost of transformer and 20% of the total cost of transformer oil; and impugned order dated 07.04.2011 (Annexure P-8), whereby, the request of the petitioner for release of his retiral benefits has been rejected.

The learned counsel for the petitioner refers to Rule 2.2(b) of the Punjab Civil Services Rules, Vol.2 Part-I, to contend that without there being any departmental inquiry constituted against the petitioner, the withholding of the amount from the retiral dues is illegal. The

ATUL SETHI
2015.08.11 16:56
I attest to the accuracy and
authenticity of this document
Chandigarh

petitioner has already retired from service.

On the other hand, the learned counsel for the respondents submits that initially, an amount of Rs.8,98,168.21 was outstanding against the petitioner, which was reflected in his No Dues Certificate. Another amount of Rs.5,60,000/- on account of various recoveries by the office was also found recoverable. However, the petitioner pursued the matter with the concerned authorities and the amount was progressively reduced. At present, an amount of Rs.83,961.37 is to be recovered from the petitioner, which has been withheld from his gratuity.

I have heard learned counsel for the parties and perused the case file carefully.

At the time of retirement of the petitioner, he was issued No Dues Certificate, wherein, huge amounts were shown outstanding against him. The petitioner pursued his case with the respondent and submitted the duly signed list of transformers on the prescribed proforma, for writing off the shortage/breakages, including the oil. Thus, the petitioner never disputed the default attributed to him.

Another aspect of the matter is that the amount which was initially found outstanding against the petitioner has been substantially reduced from Rs.14.60 lacs (approx.) to Rs.83,961.37 which has been withheld by the respondents. Apart from this amount, admittedly, all the retiral benefits have been released to him.

In the absence of any empirical study or the experts' report,

CWP-9499-2011

no expression can be made with regard to regulating the shortage or breakage raised by the petitioner.

In the circumstances, once the petitioner has himself admitted/acknowledged the shortfall, the action of the respondents in withholding the amount cannot be said to be illegal or unjustified.

Accordingly, the present petition fails and is hereby dismissed.

08.07.2015

atulsethi

(JITENDRA CHAUHAN)
JUDGE