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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 1203 of 2014 (O/M)
Date of decision : 20.9.2016

Surinder Kumar

..... Petitioner

Versus

Punjab Water Resources Management and Development Corporation
Limited and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. A.S. Walia, Advocate, for the petitioner.

Mr. Sunil Sharma, Advocate, for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

The petitioner seeks the writ of mandamus, directing the respondents to release leave encashment and gratuity. During the pendency of the present writ petition, the gratuity is stated to have been released. Now, the only question surviving for consideration is regarding release of leave encashment.

The petitioner retired from respondent No. 1-Corporation on 31.10.2011 after rendering the service of 38 years. The petitioner claims that his leave encashment has not been released.

The reply of the respondents shows that a letter dated 4.11.2010 (Annexure-R-1) was issued by the Joint Registrar, Cooperative Societies, U.T. Chandigarh, not to release the retirement dues of the retirees who hold posts in managing committee of the society in order to safeguard the public money till the audit of accounts of the society is not conducted. It was

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stated that the petitioner was holding the post of the President of that Society in which embezzlement of funds to the tune of Rs. 40 lacs has taken place. Therefore, the payment of leave encashment has been withheld.

I have heard the learned counsels for the parties and have also carefully gone through the file.

It comes out that the leave encashment has been withheld on the basis of letter dated 4.11.2010 (Annexure-R-1), issued by the Joint Registrar, Cooperative Societies, U.T. Chandigarh, till the audit of that Society is conducted. There is nothing on file to show that the audit of the society, of which the petitioner was a President has been completed despite the lapse of five years after the retirement of the petitioner and nearly six years after the issuance of the said letter. It is not claimed by respondents that any departmental proceedings has been initiated against the petitioner for imposition of any penalty. Therefore, merely on the basis of a letter dated 4.11.2010 (Annexure-R-1), issued by the Joint Registrar, Cooperative Societies, U.T. Chandigarh, the leave encashment of the petitioner could not be withheld for indefinite period. It being so, the withholding of the leave encashment without initiating any departmental proceedings or passing any specific order qua the petitioner, is found to be illegal. Accordingly, the present writ petition is allowed. The respondents are directed to release the payment of leave encashment to the petitioner within two months from the date of receipt of copy of this judgment with 9% per annum interest.

(KULDIP SINGH)
JUDGE

20.9.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No