

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.20331 of 2012 (O&M)
Date of Decision: 28.09.2016

Swaran Singh Shoker

.... Petitioner

vs.

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Sandeep Arora, Advocate for the petitioner
Mr. R.S. Pathania, DAG, Punjab
Mr. Rahul Sharma, Advocate for respondent No.3

Kuldip Singh J.(Oral)

Affidavit of Harbaksh Singh, Officiating General Manager, Punjab State Federation of Cooperative Sugar Mills Ltd. filed in the Court is taken on record.

Petitioner who was the employee of respondent No.3 i.e. Punjab State Federation of Cooperative Sugar Mills Ltd. seeks the quashing of orders dated 25.10.2011 (Annexure P-1) and 17.5.2012 (Annexure P-2) passed by respondent No.3 vide which part payment of leave encashment was withheld.

It comes out that during his service, the petitioner had encashed the leave to the extent of 68 ½ days. At the time of retirement when the payment of leave encashment was being released, the said leave period was deducted from the leave encashment paid to the petitioner. The petitioner wants to deposit back the said leave encashment which was withdrawn by him at the rate of salary applicable to him at the time of said withdrawal and now also wants the payment of those 68 ½ days at the rate

of current salary. The additional affidavit of the respondents shows that in two cases, the employees were allowed to deposit back the leave encashment already withdrawn by them during their service and they were paid at the current rate at the time of retirement.

Learned counsel for the respondents states that one of the employee is dead and therefore, no recovery can be effected. In other case, the payment was made way back in the year 2003 and no recovery is possible.

Learned counsel for the petitioner was asked to show the Rules under which the leave encashment already withdrawn during service can be allowed to deposit back and at the time of retirement the leave encashment already withdrawn is also to be paid at the current rate of the salary.

Learned counsel for the petitioner has fairly conceded that there is no such Rule.

I am of the view that once amount of leave encashment is withdrawn during service, the said period is to be deducted from the leave encashment which is to be released to the employee at the time of the retirement and the employee is not entitled to deposit back the said leave encashment and then re-draw the same along with balance leave encashment on the basis of the current salary.

Resultantly, the present petition is dismissed.

28.09.2016
gk

(Kuldip Singh)
Judge

Whether speaking / reasoned
Whether reportable

Yes
No