

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

**CWP No.9418 of 2014 (O&M)
Date of decision : February 16, 2017**

Dula Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Dilpreet Singh, Advocate for the petitioner.

Mr. Anshul Gupta, AAG, Punjab.

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 ?

KULDIP SINGH J. (ORAL)

The petitioner retired as Inspector Grade-I on 28.02.2005 from the Food and Supplies & Consumer Affairs Department. In the year, 2009, two charge-sheets dated 19.06.2009 and 27.07.2009 were served upon him, which were ultimately quashed by this Court in CWP No.14799 of 2010 on 20.07.2011 (Annexure P-1).

The plea of the petitioner is that the amount of the leave encashment is not being released. He has sought quashing of the order dated 11.02.2014 (Annexure P-5), whereby the representation of the petitioner was decided without considering the judgment of this Court passed in CWP No.14799 of 2010.

On behalf of the respondents, it is stated that a sum of ₹27,08,855.89/- is still outstanding against the petitioner on the basis of the orders passed in different inquiries and that leave encashment can be withheld for recovery of the losses. Along with the reply, the list of 21

recoveries pending against the petitioner has been annexed as Annexure R-1, in which the orders have been passed, which have become final and on account of the orders passed in the said inquiries, a sum of ₹27,08,855.89/- is recoverable.

Learned counsel for the petitioner has relied upon the authority of Full Bench of this Court delivered in ***“Punjab State Civil Supplies Corporation Ltd. and others v Pyare Lal”, 2013(5) SLR 33*** to press that the leave encashment cannot be withheld. However, it comes out that the said authority was reviewed by the Full Bench of this Court on 11.08.2014 in LPA No.113 of 2012, titled as ***“Punjab State Civil Supplies Corporation Ltd. and others v Pyare Lal”*** in which it was held that leave encashment can be withheld to affect the recovery. Now, SLP is stated to be pending before the Apex Court.

Even if, it is so, as per the present law, the leave encashment can be withheld to affect the recovery. Therefore, the department is justified in withholding the leave encashment of the petitioner. As such, the present petition is dismissed with liberty to the petitioner that if it is held by the Apex Court in SLP that leave encashment cannot be withheld, he can always move an application to revive the present petition.

(KULDIP SINGH)
JUDGE

February 16, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: No