

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

(212)

CWP-14962-2014 (O&M)

Decided on: January 17, 2019.

AMARJIT

.... Petitioner

Versus

STATE OF PUNJAB AND ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Arora, Advocate
for the petitioner.

Mr. Mehardeep Singh, Addl. A.G. Punjab.

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HARSIMRAN SINGH SETHI, J (ORAL)

The challenge is to the order dated 11.03.2014 (Annexure P-14) by which the claim of the petitioner for the release of the leave encashment for which the petitioner became entitled for after his retirement on 31.05.2009, has been rejected. Counsel for the petitioner states that when the petitioner retired from service on 31.05.2009, the charge-sheet dated 21.06.2000 was pending against him and the same was taken to the logical end and a punishment of recovery of ₹16,53,150/- was imposed on 19.03.2012. The petitioner filed a writ petition being CWP-26617 of 2013 claiming that he is entitled for the release of the leave en-cashment and gratuity even though the recovery order had been passed against him. This

Court, disposed of the said writ petition on 04.12.2013 by directing the competent authority to decide the claim of the petitioner by passing a speaking orders.

By an order dated 11.03.2014, the said claim of the petitioner was rejected on the ground that there was a recovery of ₹16,53,150/- which is pending against the petitioner as per the order dated 19.03.2012 and therefore, the amount of leave en-cashment and gratuity cannot be released. This order is under challenge in the present writ petition.

Learned counsel for the petitioner states that as per the settled principle of law settled by Full Bench judgment of this Court titled as **Punjab State Civil Supplies Corpn. Limited & Ors. Vs. Pyare Lal, Letters Patent Appeal No. 113/2012** decided on 09.11.2012 the leave en-cashment cannot be attached even during the pendency of the disciplinary proceedings and therefore, the petitioner is entitled for the release of the leave en-cashment amount as the same cannot be attached in respect of the recovery.

Learned counsel for the petitioner during the course of the argument fairly states that order passed by the Full Bench in *Pyare Lal's case (supra)* dated 09.11.2012, had already been reviewed subsequently on 11.08.2014 wherein, a finding has been recorded that even the leave en-cashment can be withheld during the pendency of the disciplinary proceedings in view of the **Rule 8.21 (aa) of the Punjab Civil Services (Punishment & Appeal) Rules 1970.**

Once, it has been admitted by the counsel for the petitioner that as per the settled principle of law, even the leave en-cashment can be withheld, then no grievance can be made by the petitioner in respect of the

orders dated 11.03.2014. Once, a Full Bench of this Court has held that the leave en-cashment can be withheld during the pendency of the disciplinary proceedings and the amount of leave en-cashment has already been adjusted by the respondents in respect of the recovery orders against the petitioner amounting to ₹16,53,150/- , no grievance can be made by the petitioner. Now in view of the order dated 11.08.2014 passed by the Full Bench in **Punjab State Civil Supplies Corpn. Limited Vs. Pyare Lal,** 2014(4) S.C.T. 711, no interference is called for by this Court in respect of order dated 11.03.2014 attached as Annexure P-14 with the present writ petition.

Counsel for the petitioner states that the statutory appeal filed by the petitioner against the order dated 19.03.2012 by which punishment of recovery of ₹16,53,150/- has been imposed is still pending and the punishment order has not attained finality. In case, the petitioner gets any relief in the said appeal, the same will be complied with by the respondents at the appropriate stage.

The writ petition stands disposed of in the above-said terms.

(HARSIMRAN SINGH SETHI)
JUDGE

January 17, 2019.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No