

CWP No.27267 of 2015
Date of Decision: 18.02.2020

J.K. Mittal

.....Petitioner

Versus

Haryana State Cooperative Supply and Marketing Federation Limited and
another

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAURPresent: Mr. Raman B.Garg, Advocate
for the petitioner.Mr. Padam Kant Dwivedi, Advocate
for the respondents.**NIRMALJIT KAUR, J. (ORAL)**

The short prayer in the present petition is to pay leave encashment with interest.

Reply has been filed. As per the said reply, the leave encashment has been withheld as two charge-sheets dated 13.03.2015 and 28.09.2015 were pending against the petitioner.

However, learned counsel for the respondents has not been able to dispute that the case of the petitioner is squarely covered with the judgment rendered by this Court in the case of Prem Singh Vs. State of Haryana and another, CWP No.6126 of 2013 and another connected case, decided on 24.03.2014, placed on record as Annexure P-4 following the judgment rendered by Division Bench of this Court in the case of B.S. Gupta Vs. Uttar Haryana Bijli Vitran Nigam Limited and others, 2006 (8) SLR 690, wherein, it was held as under:

“As per the aforesaid rule, only gratuity of death-cum-retirement gratuity can be withheld and no other retiral benefit is stipulated. Learned counsel for the appellants

also could not point out any other rule authorizing the appellant to withhold the benefit of encashment of leave.

We are, therefore, in agreement with the view taken by the Division Bench of this Court in B.S. Gupta's case (supra) holding that amount of leave encashment is payable to the retiring employee notwithstanding the pendency of the departmental enquiry or criminal proceedings.

We do not find any merit in the present appeal, which is accordingly dismissed.

In view of the ratio of decision rendered in LPA, the present petition deserves to be allowed. The respondents are directed to release the payment of leave encashment notwithstanding the departmental proceedings within a period of three months. The petitioner is also entitled to interest at the rate of 12% per annum after expiry of period of six months.”

In view of the above, the present writ petition is allowed and the respondents are directed to pay the leave encashment alongwith interest @ 6% per annum from the date of retirement till the date of payment, within two months from the date of receipt of certified copy of this order.

It is, however, made clear that if the same is not paid within the stipulated period then the same be thereafter paid alongwith 12% interest from the expiry of two months.

18.02.2020
sandeep

(NIRMALJIT KAUR)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No