

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

(219)

CWP-18915-2016

Date of Decision : May 26, 2022

Pawan Kumar

.. Petitioner

Versus

**The Punjab State Cooperative Supply and Marketing Federation
Limited and others**

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ajay Sharma, Advocate, for
Mr. Amit Sharma, Advocate, for the petitioner.

Mr. Abhishek Arora, Advocate, for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed for challenging the order dated 12.08.2016 (Annexure P-5) by which, the leave encashment admissible to the petitioner has been withheld.

Learned counsel for the petitioner argues that the petitioner retired from service on 31.05.2015 after which, the petitioner is entitled for the release of his pensionary benefits, which are not being released by the respondents. Learned counsel for the petitioner submits that though certain benefits have been released to the petitioner but the leave encashment has been withheld by the respondents by passing the impugned order dated 12.08.2016 (Annexure P-5), which order is liable to be set aside.

After notice of motion, the respondents have filed the reply and the respondents have defended the impugned order, which was passed on

the directions of this Court given in CWP No.6789 of 2016.

Learned counsel for the respondents submits that during the service career, the petitioner was found liable for deposit of amount on various occasions for which appropriate orders have already been passed. According to the respondents, the petitioner has been held liable for the payment of Rs.1,44,95,023/-. As per the respondents, the petitioner has to make good the said payments, till then the question of releasing the leave encashment amount does not arise.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, there is no replication which has been filed by the petitioner to the written statement filed on behalf of the respondents. Even in the impugned order, the reason which has been given by the respondents for withholding the leave encashment is that there are certain recoveries, which are to be done from the petitioner, which were imposed upon him while he was in service. That being so, once an amount, which is more than the amount admissible to the petitioner under leave encashment, is to be recovered from the petitioner by the respondents, the prayer of the petitioner for the release of the leave encashment, cannot be accepted.

The grounds which have been given by the respondents in the impugned order cannot be treated arbitrary or illegal or unjustified.

It is a settled principle of law settled by the Hon'ble Supreme Court of India in ***Special Leave to Appeal (C) No.11025 of 2020 titled as M/s Steel Authority of India Limited versus Raghendra Singh and others, decided on 15.12.2020***, that any amount which an employee is liable to refund to the department, is recoverable from the pensionary benefits.

Keeping in view the above, no ground is made out for the interference by this Court in the impugned order dated 12.08.2016 (Annexure P-5).

Accordingly, the present writ petition is dismissed.

May 26, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No