

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

226

CWP-4088-2020

Date of Decision:-20.09.2023

D.K. VASHISTH

...PETITIONER

Versus

**THE HARYANA STATE COOPERATIVE SUPPLY AND MARKETING
FEDERATION LTD (HAFED) PANCHKULA**

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ravi Verma, Advocate
for the petitioner.

Mr. R.K. Doon, Advocate
for the respondent.

SANDEEP MOUDGIL, J. (Oral)

The instant petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of writ in the nature of mandamus directing the respondent to release the amount of leave encashment to the petitioner for 300 unavailed earned leaves to the tune of Rs.8,70,000/- as well as gratuity to the tune of Rs.10,00,000/-(after adjusting/making recovery in terms of order dated 29.06.2018) as the petitioner had retired from the service on 31.01.2017.

In compliance of the order dated 01.08.2023, affidavit of Yogesh Kumar(HCS), Secretary has been filed on behalf of the respondent in Court today, which is taken on record.

Learned counsel for the respondent has drawn the attention of this

Court to para No.4 of the said affidavit stating that deduction of amount to the tune of Rs.3,36,323/- has been made because of the financial loss attributed to the petitioner, as per Audit Reports.

On the other hand, learned counsel for the petitioner contends that neither any order whatsoever has been passed nor any opportunity of defending himself, qua that deduction, was ever provided to the petitioner.

According to the learned counsel for the petitioner, it was also not made known to the petitioner that on what account, this financial loss has been attributed to the petitioner and in the light of the same this Court is left with no doubt that due procedure in law has not been followed by the respondent-HAFED in deducting the amount of Rs.3,36,323/-. Therefore, Managing Director-HAFED is directed to provide a copy of the order to learned counsel for the petitioner, within a period of one week from today, enabling him to produce the same in the Court, if there is any other order so passed till date.

It would be open to the petitioner to respond to the said order, after reasonable opportunity of defending himself be provided by HAFED and if the petitioner is found to be liable for any such deduction, out of his retiral benefits, regular enquiry ought to have been conducted, which shall now be followed before effecting any penal order, against the petitioner in the form of alleged recovery so far.

This petition can now be disposed of in the light of the fact that retiral benefits have been released to the petitioner, except the deducted amount of Rs.3,36,323/-, which became actually due to him on 31.01.2017, resulting into delay of more than 6 years and no justifiable cause has been brought on record which resulted into such delay.

In the light of Full Bench judgment passed in *R.S Randhawa vs. State of Punjab 1997(3) RSJ 318*, the petitioner is entitled to be duly compensated by the respondent-HAFED and interest at the rate of 9% per annum shall be paid on account of delay, on the amount so far released, to the tune of Rs.8,15,435/- within a period of two months from the date of receipt of certified copy of this order.

The instant petition stands disposed of in the aforesaid terms.

20.09.2023
P.Bhatt

(SANDEEP MOUDGIL)
JUDGE

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