

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

150(2)

2023:PHHC:146412

RSA-1314-2022

Date of decision: 17.11.2023

**PUNJAB STATE CIVIL SUPPLIES
CORPORATION LTD AND ANR.**

..Appellants

Versus

KAHAN SINGH

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harkirat Singh Randhawa, Advocate
for the appellants.

ANIL KSHETARPAL, J(Oral)

1. The respondent is a former employee of the appellant-Corporation. After having served the appellant-Corporation for nearly 36 years, he was ordered to be retired by passing a conditional order that he will not be paid his retiral dues till the complete charge is handed over and the retirement was subject to the pending departmental cases/proceedings, if any, initiated after his retirement. Subsequently, the respondent handed over the complete charge and the retiral dues were released, however, the appellant withheld the payment of leave encashment. The respondent file a civil suit challenging the aforesaid condition. The appellant-Corporation contested the suit on the ground that the plaintiff has himself given in writing to this effect.

2. The learned trial Court dismissed the suit, whereas, the learned First Appellate Court has reversed the judgment and decree passed by the trial Court resulting in direction to the appellant to release the amount on account of leave encashment.

3. The learned counsel representing the appellants submits that the respondent has himself given in writing with regard to the loss to the

Corporation and therefore, he cannot be permitted to take a U-turn and challenge the condition.

4. This Court has considered the submissions of the learned counsel representing the appellants.

5. The appellant-Corporation assumes that on account of increase of moisture in the atmosphere the stored grain will gain weight. On the basis of that assumption, the appellant asserts that the gain in the weight of grain as assessed is not as per their standard. On that basis, only an imaginary figure of loss is being presumed by the appellant.

6. The learned counsel representing the appellants admits that till date, no disciplinary proceedings have been initiated against the respondent. The respondent retired more than 10 years back i.e. in the year 2013. As per the Service Rules, till date, no order penalizing the appellant has been passed. In such circumstances, the payment due to the respondent could not be withheld. If the Corporation wants to impose a penalty, the proceedings under the Service Rules are required to be followed. The Corporation cannot sit over the matter for nearly a decade in order to deprive the former employee of benefits.

7. Keeping in view the aforesaid facts, no ground to interfere is made out.

8. Dismissed accordingly.

9. All the pending miscellaneous applications, if any, are also disposed of.

November 17th, 2023

(ANIL KSHETARPAL)
JUDGE

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