

[105+228] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-21429-CWP-2023 in/and
CWP-26958-2019

Date of Decision : 24.04.2024

Anil Kumar Nandwani ...Petitioner

versus

Uttar Haryana Bijli Vitran Nigam
Ltd., Panchkula and othersRespondents

Coram : **HON’BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present : Mr. Mohnish Sharma, Advocate
for the petitioner.

Ms. Aditi Sharma, Advocate for
Mr. C.S. Bakshi, Advocate
for the applicants-respondents.

JASGURPREET SINGH PURI, J. (ORAL)

CM-21429-CWP-2023

This is an application filed under Order 6 Rule 17 read with
Section 151 of CPC, 1908 by the respondent for amendment of the
written statement dated 15.10.2022.

For the reasons mentioned in the application, the same is
allowed. Amended written statement alongwith Annexure R-1 is taken
on record.

CWP-26958-2019

[1] The present writ petition has been filed under Articles
226/227 of the Constitution of India for issuance of a writ in the nature of

CM-21429-CWP-2023 in/and
CWP-26958-2019

-2-

certiorari for quashing/setting aside the illegal and arbitrary action of the respondents to the extent of deducting of Rs.3,18,401/- from the retiral benefits (leave encashment) of the petitioner vide its office Memo No.Ch-16/EG-19 dated 08.08.2018 (Annexure P-1) with a further prayer for directing the respondents to release an amount of Rs.3,18,401/- (leave encashment) in favour of petitioner with 18% market interest with consequential relief which was deducted illegally, arbitrarily, wrongly from the leave encashment of the petitioner.

[2] Learned counsel appearing on behalf of the petitioner submitted that the petitioner was working as Junior Engineer with the respondent-Corporation and he retired on 31.08.2018. He submitted that while he was in service there was neither any enquiry nor any chargesheet nor any criminal case against the petitioner and after the retirement when the retiral benefits were to be disbursed to the petitioner, the respondents deducted/recovered an amount of Rs.3,18,401/- from the retiral benefits of the petitioner on account of stolen material AB Cable drawn from Central Store, Panipat. In this regard, he referred to Annexure P-1, which was a letter written by the Executive Engineer, City Division, UHBVN, Panipat to the Executive Engineer, M&P Division, UHBVN, Karnal. He submitted that the aforesaid deduction from the retiral benefits of the petitioner was without the authority of law in view of the fact that there is no order of punishment or no enquiry etc. against the petitioner and the mere fact that no notice was issued to the petitioner at that time when he was in service cannot fasten any liability in the absence of any order from

CM-21429-CWP-2023 in/and
CWP-26958-2019

-3-

[3] Learned counsel also referred to a judgment of a Division Bench of this Court in '*Ashok Kumar Dhamija versus Dakshin Haryana Bijli Nigam Limited and others*', CWP No.7949 of 2005, decided on 21.09.2006 (Annexure P-8) in this regard.

[4] On the other hand, Ms. Aditi Sharma, Advocate appearing on behalf of the respondents submitted that as per the amended reply filed by the respondents, admittedly, there was no chargesheet or any enquiry against the petitioner at any point of time.

[5] I have heard learned counsels for the parties.

[6] It is a case where the facts are not in dispute and even as per the respondents, there was no enquiry or notice or any disciplinary proceedings was issued against the petitioner. After his retirement, an amount of Rs.3,18,401/- was deducted from his pensionary benefits. It is a settled law that in case any recovery is to be made from the retiral benefits, then the same can only be done with the authority of law and by following the due procedure. Admittedly, there was no chargesheet or any proceedings against the petitioner at any point of time. Therefore, it is crystal clear that the recovery from the petitioner on account of stolen material AB Cable drawn from Central Store, Panipat was bad in law and the same could not have been recovered.

[7] In view of the above, the present petition is allowed. The respondents are directed to pay the petitioner the aforesaid amount of Rs.3,18,401/- within a period of 03 months from today along with

CM-21429-CWP-2023 in/and
CWP-26958-2019

interest @6% per annum. In case, the aforesaid amount is not paid to the petitioner within a period of 03 months from today, then he shall be entitled for a future rate of interest @ 9% per annum.

(JASGURPREET SINGH PURI)
JUDGE

24.04.2024
'Rajneesh'

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