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

**CWP-147-2026 (O&M)
Date of Decision: 21.04.2026**

ABDUL MAJID

... PETITIONER

Versus

THE HIGH COURT OF PUNJAB AND HARYANA

... RESPONDENT

**CORAM:- HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV BERRY**

Present:- Mr. Puneet Gupta, Advocate, for the petitioner.

Mr. Sumit Jain, Advocate for the respondent.

SANJIV BERRY, J.

1. The petitioner has preferred the instant writ petition under Article 226/227 of the Constitution of India seeking writ in the nature of mandamus directing the respondent to release the benefit of Leave Encashment of 300 days un-utilized earned leave to the petitioner, besides seeking writ of certiorari for quashing of order/letter dated 20.01.2026 (Annexure P-18) whereby legal and valid claim of the petitioner for release of his retrial dues i.e leave encashment has been rejected.

2. Briefly stating the facts of the case are that the petitioner joined as Civil Judge (Junior Division)-cum-Judicial Magistrate IInd Class on 08.11.1996, got promoted as Additional Civil Judge (Senior Division) on 01.10.2001 and later was designated as Civil Judge (Senior Division) on 01.03.2008. The petitioner was further promoted as Additional District and Sessions Judge on



01.05.2012. The work and conduct of the petitioner remained excellent during his service career except for three charge-sheets dated 28.02.2023, 19.10.2024 and 19.10.2024 (Annexure P-1, P-2 and P-3 respectively).

2.1 It is averred that the charges are baseless and the petitioner submitted detailed replies thereof. However he was suspended vide orders dated 10.09.2024 (Annexure P-8 and P-9), against which the petitioner submitted detailed representation which however was rejected vide order dated 05.10.2024. The petitioner in the meanwhile retired as Additional District and Sessions Judge on 31.10.2024. On 21.10.2024, the petitioner submitted representation requesting for disbursement of the amount of gratuity which was rejected on 12.11.2024 on the ground that he is not entitled to the same till the conclusion of departmental proceedings vide (Annexure P-13), however he was granted provisional pension as admissible on the basis of his qualifying service. Later 100% provisional pension has been released to the petitioner.

2.2 On 21.10.2024 petitioner submitted representation with the request to release the amount of leave encashment of 300 days unutilized earned leave admissible to him followed by representation dated 19.02.2025 and 28.07.2025 but nothing has been paid except for provisional pension, General Provident Fund and 57 days earned leave. Hence the petition seeking release of amount and quashing of the impugned order dated 20.01.2026 (Annexure P-18) whereby the claim of petitioner for release of leave encashment has been kept pending till the conclusion of the disciplinary matters.

3. On notice, reply was filed by the contesting respondent-High Court admitting the factum of the petitioner being in service on various posts till his retirement. It is submitted that 3 charge-sheets dated 28.02.2023, 19.10.2024 and 19.10.2024 (Annexure P-1, P-2 and P-3 respectively) have been served upon the



petitioner and the disciplinary proceedings qua the same are going on. The provisional pension, GPF, and 57 days leave encashment have been released.

3.1 It was submitted that the request of the petitioner for release of leave encashment in lieu of the un-utilized portion of his earned leave has been kept pending till the conclusion of the disciplinary proceedings as well as till the finalization of his suspension period which will be determined after culmination of such proceedings. The issue regarding treatment of suspension period is yet to be finalized and in case the said period is treated as the leave of kind due then the leave balance of the petitioner would stand reduced, hence prayed for dismissal of the petition.

4. We have heard learned counsel for the parties and perused the record.

5. After considering the rival contentions and going through the record, it transpires that the petitioner had joined the services as Civil Judge (Junior Division)-cum-Judicial Magistrate IInd Class on 08.11.1996, got promoted as Additional Civil Judge (Senior Division) on 01.10.2001, Civil Judge (Senior Division) on 01.03.2008, and thereafter retired as Additional District and Sessions Judge on 31.10..2024.

5.1 Admittedly the petitioner was suspended on 10.09.2024 pursuant to the disciplinary proceedings initiated against him and as per record 3 charge-sheets dated 28.02.2023, 19.10.2024 and 19.10.2024 (Annexure P-1, P-2 and P-3 respectively) have been served upon the petitioner qua which disciplinary proceedings were initiated.

5.2 It is evident from record that so far as charge-sheet dated 28.02.2023 (Annexure P-1) and 19-10-2024 (Annexure P-2) is concerned, after considering the replies submitted by the petitioner the matters were ordered to be kept



pending to await the outcome of the Regular Departmental inquiry. The copies of the aforesaid chargesheets are Annexure R1 and R2 respectively.

5.3 It is evident from reply submitted by respondent High Court that qua the charge-sheet dated 19.10.2024 (Annexure R-3) a regular Departmental Inquiry has been initiated which is pending at the stage of defence evidence.

6. The point of contention in the present case is as to whether during the pending Departmental Inquiry, amount in lieu of utilized earned leave can be withheld.

6.1 In this regard the contention of the counsel for petitioner is that the petitioner had retired from service on 31.10.2024 and as per Rule 65 Chapter XII of the 2016 Rules Haryana Civil Services (Leave) Rules 2016 (hereinafter referred as 2016 Rules) he was entitled to leave encashment of un-utilized earned leave standing at his credit on the date of retirement or quitting the service subject to maximum of 300 days and the petitioner was having more than 300 days un-utilized earned leave to his credit. He submits that since the petitioner was put under suspension for 50 days prior to his retirement w.e.f 10.09.2024 so the department could have deducted 50 days earned leave from his credit and should have disbursed the balance leave encashment due, but stand taken by the respondent-High Court is that the leave encashment has been deferred till the conclusion of the Departmental Inquiry.

6.2 Before proceeding further, it will be apt to have glance on the relevant provisions of Haryana Civil Services (Leave) Rules 2016:-

Chapter – XII
Leave Encashment

65. Leave encashment on the date of retirement or quitting service.—

(1) A Government employee, in addition to leave preparatory to retirement, is entitled to benefit of leave encashment of unutilized earned leave standing at his credit on the date of retirement or



quitting service subject to maximum of 300 days, in any one or more of the following circumstances :-

- 1. retirement on superannuation;*
- 2. compulsorily retirement as a measure of punishment;*
- 3. voluntary retirement;*
- 4. premature retirement;*
- 5. retirement on grounds of invalidation advised by a competent medical authority;*
- 6. on completion of term of service of re-employment after retirement in a prescribed pay structure;*
- 7. termination due to retrenchment or abolition of the post, provided the Government employee is not adjusted against any vacancy in any department of Haryana Government;*
- 8. absorption/adjustment of a Government employee in an organization under any Government including Haryana Government;*
- 9. subsequent appointment in a department under any Government other than Haryana;*
- 10. death or disappearance while in service, to the family of the deceased or disappeared Government employee.*

Note.— *The total benefit of leave encashment availed from any department or organization under any Government including Haryana Government at one or more of the above said occasions shall not exceed 300 days or upto the limit prescribed from time to time.*

(2) In case of resignation from service, leave encashment shall be restricted to the extent of half of earned leave at the credit of Government employee or half of the maximum limit prescribed from time to time, whichever is less.

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69. Withholding of leave encashment.— *The authority competent to sanction leave may withhold whole or part of cash equivalent of leave salary in lieu of unutilized earned leave in the case of a Government employee who retires from service while under suspension or against whom disciplinary or criminal proceedings are pending at the time of*



retirement or quitting service, if in the view of such authority there is a possibility of some money becoming recoverable from him on the conclusion of the proceedings against him. On the conclusion of the proceedings he shall become eligible to the amount so withheld after adjustment of Government dues, if any. In cases where disciplinary or criminal proceedings in case of grave misconduct are likely to result in withholding of pension in full, no amount of leave encashment shall be paid untill conclusion of such proceedings.”

7. The perusal of the aforesaid Rules would reveal that the leave encashment can be withheld by the competent authority in case where disciplinary or criminal proceedings are pending in case of grave misconduct which are likely to result in **“withholding of pension in full”**. Out of the three charge-sheets served upon the petitioner, only one i.e. (Annexure R-3) is pending regular departmental inquiry whereas charge-sheet R-1 and R-2 have been kept pending to await the outcome of the Regular Departmental Inquiry in Annexure R-3.

8. A glance on the charge-sheets especially (Annexure R-3) wherein Regular Departmental Inquiry is under way would *prima facie* reveal that the allegations to be not so grave that there is likely hood to result in withholding the pension in full of the petitioner.

9. The respondent vide letter (Annexure P-18) dated 20.01.2026 had kept the request made by the petitioner for grant of leave encashment pending till conclusion of the Disciplinary matters pending against him as well as finalization of the matter regarding treatment of his suspension period, which considering the provisions contained in Rule 69 (supra) in consonance with the contents of the charge-sheet served upon the petitioner, appears to be inappropriate. At the most, the respondent could have withheld the leave encashment qua the earned leaves for period of 50 days w.e.f. 10.09.2024 till



31.10.2024, the period for which the petitioner remained under suspension before his superannuation.

10. Consequently, in view of the above discussion, the instant petition is hereby disposed of with the direction to respondent-High Court to release the leave encashment in lieu of un-utilized earned leave to the petitioner for the period by deducting the period of suspension w.e.f. 10.09.2024 to 31.10.2024 from the period of 300 days, forthwith. However, qua the leave encashment for the period of suspension aforesaid is concerned, the same would be released to the petitioner once the decision qua the treatment of period of his suspension is taken by the Competent Authority, after conclusion of the Departmental Inquiries against the petitioner.

11. Accordingly the writ petition stands disposed of in above terms.

12. Pending application(s) if any, stands disposed of.

(SANJIV BERRY)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

Dated: 21.04.2026

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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No