

Court No. - 5

Case :- WRIT - A No. - 8428 of 2025

Petitioner :- Ajay Kumar Misra

Respondent :- State Of U.P. Thru. Prin. Secy. P.W.D. Lko. And 3 Others

Counsel for Petitioner :- Shivanshu Goswami, Arpit Verma, Purna Jalan

Counsel for Respondent :- C.S.C., Shishir Jain

Hon'ble Abdul Moin, J.

1. Heard learned counsel for the petitioner, learned Standing counsel appearing on behalf of the respondent no. 1 and Ms. Ranjana Agnihotri, Advocate who has filed her Vakalatnama on behalf of the respondents no. 2 to 4 which is taken on record.

2. With the consent of learned counsel appearing on behalf of the contesting parties, the instant writ petition is being finally decided.

3. The petitioner, a retired employee who claims to have retired on 31.07.2024 while working as a Project Manager (Civil) from the Corporation is before this Court raising a challenge to the order dated 15.02.2025, a copy of which is annexure 1 to the writ petition whereby the respondent-Corporation has not given the no dues certificate to the petitioner for payment of leave encashment on the ground that the departmental inquiry is pending.

4. Learned counsel for the petitioner contends that as per the letter dated 21.07.2025, a copy of which is annexure 5 to the writ petition, the said departmental inquiry is pending since 10.06.2020. He further states that mere pendency of the departmental inquiry cannot be considered to be an impediment for non release of the leave encashment as held by this Court in the case of **Masood Ahmad Vs. State of U.P and ors- 2023:AHC-LKO:47936**.

5. Perusal of the aforesaid judgment indicates that this Court while placing reliance on the judgment of **Madhusudan Agarwal Vs. State of U.P and Ors passed in Writ-A No. 36019 of 2008** decided on **18.04.2015** has held that leave encashment cannot be withheld on the ground of pendency of departmental inquiry or criminal proceedings.

6. Ms. Ranjana Agnihotri, learned counsel appearing on behalf of the respondents no. 2 to 4 does not dispute the aforesaid proposition of law as laid down by this Court in the cases of **Masood Ahmad (supra) & Madhusudan Agarwal (supra)** .

7. Considering the aforesaid consensus on the part of the learned

counsel appearing on behalf of the respondent-Corporation, the writ petition is allowed. The order impugned dated 15.02.2025, a copy of which is annexure 1 to the writ petition is quashed.

8. The respondents are directed to issue no dues certificate to the petitioner in case there is no further legal impediment and to pay the leave encashment to the petitioner.

9. Let this order be complied with within a period of eight weeks from the date of receipt of a certified copy this order.

10. While making the payment of the leave encashment, the respondents would also consider the payment of interest of the delayed payment of the leave encashment from the date it became till the date of actual payment.

Order Date :- 30.7.2025

Pachhere/-