

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP No. 18785 of 2015 (O & M)

Date of decision: 21.09.2015

Ashok Kumar and others

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA**

Present: Mr. A.S. Bhatti, Advocate,  
for the applicant-petitioners.

**G.S.SANDHAWALIA, J. (Oral)**

**C.M. No. 12354 of 2015**

Application for placing on record orders of this Court as  
Annexures P-6 to P-8 is allowed, subject to all just exceptions.

The same are taken on record.

**CWP No. 18785 of 2015**

Prayer made in the present writ petition is for directing the respondents to grant 16 years' proficiency step up to the petitioners which was withdrawn by the respondents vide order dated 24.01.2008 passed by respondent no. 2. The petitioners' desire is that their legal notice be decided for the above said claim in view of the judgment of this Court in ***CWP No. 18830 of 2008, Sadhu Singh and others vs. State of Punjab and others***, decided on 16.11.2010 (Annexure P-1).

The said prayer cannot be accepted for the simple reason that the petitioners, admittedly, in an earlier round of litigation, had approached this Court in CWP No. 16531 of 2011, Ashok Kumar vs. State of Punjab

and others, CWP No. 15798 of 2011, Ram Krishan vs. State of Punjab and others and CWP No. 16470 of 2011, Hem Raj vs. State of Punjab and others decided on 16.01.2012, 20.07.2012 and 23.08.2012 respectively. In the said cases, the petitioners had restricted their claim only to the recovery being effected and gave up the right to the refixation whereby the benefit of proficiency step up was being withdrawn and the pay was refixed. This would be clear from the order passed in *Hem Raj's case (supra)* on 23.08.2012, part of which reads thus:-

*“The petitioner who was holding the post of Surveyor in Department of Agriculture, State of Punjab retired on 31.03.2007 upon attaining the age of superannuation. Challenge in terms of filing the present writ petition is to the order dated 22.12.2009 (Annexure P-12) whereby the benefit of proficiency step up given to the petitioner while in service was sought to be withdrawn and the pay was refixed.*

*Learned counsel appearing for the petitioner makes a statement that he is not challenging the action of the respondents-authorities in withdrawing the benefit and accordingly refixation of his pay. Learned counsel for the petitioner submits that the petitioner is challenging the recovery of financial benefits that had been granted to him while in service. He further submits that the financial benefit towards proficiency step up that had been granted to him was not on the ground of any misrepresentation, and, therefore, any recovery to be effected in pursuance to the impugned order dated 22.12.2009 (Annexure P-12) would be in violation of full bench judgment of the Court in **Budh Ram Versus State of Haryana 2009 Volume (3) SCT page 333.**”*

Counsel for the petitioner has vehemently tried to justify that

the case of *Sadhu Singh (supra)* had been decided and the matter was pending before the Apex Court and, therefore, the said relief had not been claimed in an earlier round of litigation.

The said argument cannot be accepted. In *Sadhu Singh's case (supra)*, this Court was only seized with the issue of recovery being effected without even issuing show cause notice and resultantly, the order had been passed quashing the recovery being effected with liberty to the respondents to give an opportunity of hearing in view of the Full Bench judgment of this Court in ***Budh Ram and others vs. State of Haryana and others, 2009 (3) PLR 511***. The matter was never decided on merits as such regarding the fact whether the proficiency step up, which was sought to be withdrawn, had been wrongly withdrawn.

In such circumstances, the petitioners having given up their claim in an earlier round of litigation, cannot seek to re-agitate the same afresh by seeking a direction in a positive manner that they be paid what had already been withdrawn.

Accordingly, the present writ petition is dismissed.

21.09.2015  
shivani

(G.S. SANDHAWALIA)  
JUDGE