

Civil Writ Petition No. 26220 of 2015 (O&M)

Date of decision : December 17, 2015

Prem Kumar Sharma

.....Petitioner

Versus

State of and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Tribhawan Singla, Advocate
for the petitioner.

LISA GILL, J.

Prayer in this writ petition is for implementation of judgment dated 28.01.2014 passed by Division Bench in LPA Nos. 1765 and 1764 of 2012 and payment of entire retiral dues including subsistence allowance, salary, leave encashment etc. Perusal of order dated 28.01.2014 reveals that it was passed on the basis of consensus arrived at between the parties. Operative para of the judgment reads as under:-

“ Under the circumstances, we dispose of both the appeals as per the undertaking given by the respondent No.1- Management. The amount of gratuity be calculated and be paid to the appellant in three equated six monthly instalments. The first instalment will be paid on or before 15.3.2014 If any default is committed in the payment of amount, so calculated, the Management shall pay simple interest at the rate of 8% per annum to the appellant from the date of his retirement.

The appellant will be at liberty to claim Contributory Provident Fund amount lying with the competent authority to which no objection shall be raised by the respondent-Management. It is expected that the competent authority shall disburse the amount within four months from the date of application to be moved by the appellant.”

Learned counsel for the petitioner fairly accepts that benefits, as above, have been received by the petitioner. In view of peculiar circumstances of this case, this writ petition is clearly not maintainable. Petitioner seeks to re-open the entire controversy, which has been settled on 28.01.2014. Once petitioner accepted the terms and conditions, it is not open to him to re-agitate the matter in this manner.

Accordingly, this writ petition is dismissed.

December 17, 2015
rts

(Lisa Gill)
Judge