

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

CWP No. 11030 of 2016
Date of decision: 30.05.2016

Smt. Kamla Pathak

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

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

Present: Mr. V.K. Sharma, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks quashing of the order dated 10.12.2010 (Annexure P-7) vide which, the claim of the petitioner for grant of proficiency step up on completion of 8, 18, 24 and 32 years of service to her deceased husband was rejected. Resultantly, a writ in the nature of mandamus has been sought for the benefits alongwith interest.

It is not disputed that the petitioner had filed a suit for the same relief i.e. Civil Suit No. 240-1 dated 16.12.2009. During the pendency of the suit, the impugned order dated 10.12.2010 (Annexure P-7) was passed rejecting the claim. The petitioner chose not to amend the suit and the defendants had relied upon the said order also, which was accepted by the Additional Civil Judge (Sr. Divn.), Malout. The suit was dismissed on 05.06.2012 (Annexure P-5). The petitioner preferred an appeal which was also dismissed on 08.01.2013 (Annexure P-6) wherein, the Appellate Court noticed that the plaintiff had failed to point out any illegality in the order and nor she had impugned the validity of the said order. Thereafter, **RSA**

No. 1885 of 2013, Kamla Pathak vs. Secretary PWD (B&R), Punjab and others was decided on 24.07.2015. It was noticed that the impugned order dated 10.12.2010 was placed on record but no attempt was made to challenge the order. The judgments and decrees were accordingly upheld and the appeal was dismissed on 24.07.2015 (Annexure P-8).

It is, thus, apparent that the petitioner has already failed in claiming the said relief on the civil side. Once that is so, the present writ petition, on the same cause of action, would not lie under the principles of *res judicata*.

Accordingly, the present writ petition is dismissed.

30.05.2016
shivani

(G.S. SANDHAWALIA)
JUDGE