

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

CWP No. 590 of 2013
Date of Decision: 17.02.2017

PUNJAB MANDI BOARD

.....Petitioner

VS.

***ASSISTANT PROVIDENT FUND COMMISSIONER-I AND
ANOTHERS***

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. S.S. Rangri, Advocate,
for the petitioner.

Mr. Sanjay Tangri, Advocate,
for the respondents.

KULDIP SINGH, J (ORAL)

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India praying for issuance of appropriate writ for quashing the order dated 05.06.2006 (*Annexure P-4*) passed by the respondent No. 1 and the order dated 04.06.2010 (*Annexure P-6*) passed by the respondent No. 2 whereby the appeal filed by the petitioner under the provisions of Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (herein after referred as "the EPF Act, 1952") was rejected. Prayer is also made for issuance of a direction that the amount which has been paid on account of above mentioned order may be refunded to the petitioner.

Brief facts of this case are that the Punjab Mandi Board has impugned the order dated 05.06.2006 (*Annexure P-4*) passed by the Assistant Provident Fund Commissioner, Amritsar vide which assessment under Section 7-(A) of the EPF Act, 1952 was made and the petitioner was directed to deposit the amount in the PF account. The petitioner has also challenged

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the order dated 04.06.2010 (*Annexure P-6*) passed by the Employees' Provident Fund Appellate Tribunal, New Delhi, whereby the order dated 05.06.2006 was upheld.

It comes out that previously, the petitioner had filed a Civil Writ Petition, bearing number CWP No. 21797 of 2010, challenging the aforesaid orders dated 05.06.2006 and 04.06.2010 (*Annexure P-4 and P6 respectively*) but the said writ petition was dismissed as withdrawn vide on 30.03.2011, without seeking any permission to re-file the fresh one on the same cause of action.

Once the first writ petition is dismissed as withdrawn, then later on the impugned orders cannot be challenged by way of second writ petition as the said impugned orders have become final due the dismissal of the first writ petition as withdrawn.

Learned counsel for the petitioner contended that in the previous writ petition no prayer was made for refund of amount which was deposited in respect of the impugned orders. However, even if it so, the petitioner should have sought permission of the Court to file a fresh one or should have amended the earlier writ petition.

In the circumstance, since, the first petition has been dismissed as withdrawn, therefore, the second writ petition on the same cause of action does not lie and accordingly, the present writ petition is dismissed.

February 17, 2017

Suresh Kumar

(KULDIP SINGH)
JUDGE

Whether speaking / reasoned :

✓
Yes / No

Whether Reportable :

✓
Yes / No