

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

Sr. No.109

Civil Writ Petition No.7326 of 2017  
DECIDED ON: August 28, 2017

MEHAR SINGH

..PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Dilbagh Singh, Advocate,  
for the petitioner.

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JASPAL SINGH, J.

Through the instant civil writ petition preferred under Article 226/227 of the Constitution of India, petitioner has sought the issuance of a writ in the nature of certiorari to quash/set aside the order dated December 08, 2016 (P-8) passed by the respondent No.3, whereby relief sought by petitioner to count his entire service rendered from July 12, 1988 to October 21, 2008 for the purpose of pensionary benefits including the different spells of suspension period as well as to release the 50% subsistence allowance till date along with the relief of 2<sup>nd</sup> ACP on completion of 20 years of service as well as grant of interest on the delayed period from October 21, 2008 onwards on the pensionary benefits, has been declined.

2. Undisputably, petitioner earlier preferred Civil Writ Petition No.5425 of 2015 captioned as *Mehar Singh Vs. State of Haryana & ors.* before this Court, which stands disposed of vide judgment dated September 27, 2016 (P-6), whereby the petitioner was held entitled subsistence

allowance for the suspension period from November 20, 1991 to May 04, 1992 and January 14, 2003 to April 26, 2003 as well as to count the aforesaid two spells of suspension period i.e. towards qualifying service for grant of pension, whereas the decision with regard to grant of ACP on completion of 20 years of service, the respondents were directed to count the service of two spells of suspension period and if the petitioner fulfills all the terms and conditions, which are required for grant of ACP on completion of 20 years of service, pass the necessary order within two months.

3. Aggrieved against the said judgment dated September 27, 2016, petitioner preferred Letters Patent Appeal No. 2374 of 2016 (O&M), which was disposed of upholding the aforesaid judgment. However, it was observed that in case the appellant now the petitioner is entitled to pension from the date of compulsory retirement i.e. October 21, 2008, he would be at liberty to raise such claim before the Competent Authority who shall consider and decide the same in accordance with law.

4. Thereafter, not only this, petitioner also preferred a Review Application No.14 of 2017, which was disposed of vide order dated May 01, 2017 (P-11). But in the meanwhile, the case of the petitioner was considered by counting the suspension period towards pension as well as ACP, it was found short of the requisite period and since the petitioner was not found to have completed the minimum 20 years of service, the ACP Scale was declined.

5. Now, through the instant petition, the claim put forth by the petitioner is that his entire service rendered by him from July 12, 1988 to October 21, 2008 may be counted for the purpose of pensionary benefits

including the different spells of suspension and to release the 50% of subsistence allowance denied till date along with 2<sup>nd</sup> ACP on completion of 20 years of age and further for grant of interest on the delayed payments.

6. As regards grant of interest on the delayed payment, it has already been declined whereas subsistence allowance has already been ordered to be paid. Both the suspension periods referred to above in para no.2 have already been ordered to be counted towards pensionary benefits as well as grant of ACP scale on completion of 20 years of service. Again, the similar relief has been claimed. Otherwise also, claim put forth by the petitioner amounts to splitting up of the claim as per the provisions of the Order II Rule 2 of Code of Civil Procedure. It is well settled proposition of law that if a claim is relinquished in the first petition, the said claim is deemed to have been abandoned and second petition in respect thereof is not legally maintainable.

7. This Court has also scanned the impugned order dated December 08, 2016 (P-8), which in the considered view of this Court does not suffer from any illegality or infirmity and is absolutely in consonance with the rules and settled canons of law.

8. In the light of what has been discussed above, instant petition stands dismissed.

9. No order as to costs.

**August 28, 2017**

*Ankur*

**(JASPAL SINGH)  
JUDGE**

**Whether speaking/reasoned  
Whether reportable**

**Yes  
Yes/No**