

CWP No.17528 of 2015

[1]

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

Sr. No.222

**Civil Writ Petition No.17528 of 2015
DECIDED ON: February 19, 2018**

SAMUNDER SINGH

..PETITIONER

VERSUS

**DAKSHIN HARYANA BIJLI VITRAN NIGAM LIMITED AND
OTHERS**

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Sanjeev Kodan, Advocate,
for the petitioner.

Mr. R.K.S. Brar, Advocate,
for the respondents.

JASPAL SINGH, J.

Through the instant civil writ petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought issuance of a writ in the nature of Ceriorari directing the respondents to quash the order dated 01.04.2015 (P-4) as well as order dated 28.05.2014 (P-5), vide which claim of the petitioner for releasing the recovered amount to the tune of Rs.1,86,498/- has been declined AS WELL AS praying for a writ in the nature of Mandamus directing the respondents to release the aforesaid amount along with interest.

2. Undisputably, petitioner earlier filed a CWP No.27046 of 2013, seeking issuance of directions to the respondents for payment of

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interest on the delayed payment of retiral benefits, which were alleged to have been wrongly withheld even after acquittal of the petitioner in criminal case bearing FIR No.129, dated 25.07.1998, at Police Station Kosli, under Section 409 IPC. However, the said petition was disposed of vide order dated 10.12.2013 with a direction to the respondents to consider the representation of the petitioner with regard to release of interest on the delayed payments in the light of relevant instructions as well as to release the financial benefits to him, within next two months. Since, aforesaid order dated 10.12.2013 was not complied with within the prescribed period, petitioner filed COCP No.1502 of 2014, which was disposed of 16.01.2015 as infructuous as the interest amounting to Rs.1,63,783/- on account of interest on the delayed payment of retiral benefits had already been paid. Now, through instant petition petitioner has sought refund of a sum of Rs.1,86,498/-, which was earlier withheld.

3. Here it would be pertinent to mention that petitioner has not approached this Court with clean hands and concealed the material facts with regard to fact that similar claim of the petitioner was earlier considered in view of the directions issued by this Court but was rejected while passing a speaking order vide office order No.20 dated 06.03.2009 (R-4/1). Not even the slightest reference of the said order has been given in the instant petition rather it was concealed. Not only this, petitioner had also filed CWP No.14432 of 2003 against the respondents-Nigam before this Court, in which, respondents were directed to decide his representation within a period of four months. The said representation of

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the petitioner was considered and finally dealt with and disposed of vide Order No.8, dated 12.01.2004 by passing a speaking order. But the petitioner did not disclose the filing of the said petition and passing of the order dated 12.01.2004 while filing the previous petition and said fact was also concealed therein. Similarly, these aspects were also not disclosed while he had filing CWP No.19043 of 2008 against the respondents-Nigam, so the petitioner is guilty of concealment of the real facts about previous litigation as referred to above.

4. Adverting to the facts of the instant petition, no challenge has been made to the order dated 06.03.2009 (R-4/1). Untill and unless, the said order is set aside or quashed, petitioner is not entitled to any benefit, which has been claimed through instant petition and for the reasons closed to his chest, he has opted to either challenge it or to give a reference thereof in the instant petition, though, quashing of other orders dated 01.04.2015 (P-4) and 28.05.2014 (P-5) has been sought. In the facts and circumstances referred to above, petitioner is guilty of the concealment of the real and actual facts and on merits also there is nothing favourable to him. Thus, instant petition is dismissed.

5. No order as to costs.

February 19, 2018
Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No