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

**CWP No.26585-2014**

**Date of Decision: Sept. 14, 2018**

Gurmeet Singh

....Petitioner.

Versus

Municipal Council, Jaitu and others

...Respondents.

**CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN**

**Present:** Mr. S.S. Panag, Advocate  
for the petitioner.

Mr. Anil Sharma, Advocate  
for respondent No.1.

Ms. Bhavna Gupta, DAG, Punjab.

**SHEKHER DHAWAN, J.**

Present writ petition under Article 226 of the Constitution of India is for quashing order dated 11.07.2014 (Annexure P/4) passed by learned Industrial Tribunal, Bathinda (hereinafter referred to as "learned Tribunal") vide which reference was declined.

2. Facts relevant for the purpose of decision of this writ petition; that the petitioner herein was appointed as a Clerk on 11.12.2000. His initial appointment was on contract basis for a period of six months. After expiry of the contract period, the petitioner was allowed to continue and respondent No.1 i.e. Municipal Council, Jaitu passed a resolution dated

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14.08.2001 to regularize the services of the employees.

3. The petitioner continuously worked for more than 240 days in the preceding calendar year and worked up to 30.11.2001. Thereafter, he was verbally asked not to come on duty as the Government of Punjab decided to abolish the Octroi w.e.f. 01.12.2001. The Punjab Government issued instructions that the employees, who were working for collection of octroi as on 30.11.2001, may be assigned to the other sections of concerned Urban Local Body. But, the petitioner was not given any employment despite Government instructions. No notice or compensation was given to the petitioner as required under Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred as, '**the Act**') and accordingly the petitioner raised an industrial dispute and reference was made to learned Tribunal. The petitioner has also taken the plea that one of his colleagues has also raised similar industrial dispute and the same was allowed vide the award dated 21.08.2012 (Annexure P5).

4. As per the petitioner, he along with similarly effected persons had filed civil suit for permanent injunction for restraining the defendants from removing him from service and that suit was dismissed by learned Additional Civil Judge (Sr. Divn.), Faridkot, vide the judgment dated 18.03.2008 (Annexure P/6). The petitioner preferred appeal against the said judgment and the same was also dismissed vide judgment dated 14.11.2008 (Annexure P/7). The petitioner prayed that the award dated 11.07.2014 (Anenxure P/4) be set aside.

5. Respondents have come with the plea that the present writ petition is not maintainable as the petitioner has concealed material facts.

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As per the respondents, appointment of the petitioner was purely on contract basis and the Government abolished the octroi w.e.f. 01.12.2001. The petitioner had filed civil suit for permanent injunction for restraining the defendants from removing him from service, which was dismissed by learned Additional Civil Judge (Sr. Divn.), Faridkot, vide the judgment dated 18.03.2008 and the appeal preferred against the said judgment was also dismissed vide Annexure P/7. As such, the present writ petition is not maintainable and the same be dismissed.

6. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that there is no dispute on facts, that the petitioner herein had filed civil suit for permanent injunction for restraining the respondent-defendants from removing him from service, which was dismissed by learned Additional Civil Judge (Sr. Divn.), Faridkot, vide the judgment dated 18.03.2008 (Annexure P/6) and the appeal preferred by the petitioner against the said judgment was also dismissed vide judgment dated 14.11.2008 (Annexure P/7). Thereafter, the present industrial dispute was raised which is not maintainable. Same operates as res judicata against the workman. Such a view was taken by Hon`ble Apex Court in **Executive Engineer, ZP Engg. Divn. Vs. Digambara Rao, 2005(1) SCT 636; Pondicherry Khadi & Village Industries Board Vs. P. Kulothangan and Anr. 2003(4) SCT 913** and Hon'ble Division Bench of this Court in **Gulzar Singh Vs. Director State Transport, 2017 (3) SCT 53**. Applying the same principle of law to the present set of facts, the writ petition filed by the petitioner is not maintainable.

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7. Resultantly, the present writ petition is without any merit and the same stands dismissed being not maintainable.

**(SHEKHER DHAWAN)**  
**JUDGE**

**September 14, 2018.**  
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| Whether speaking/reasoned? | : | Yes |
| Whether reportable?        | : | Yes |