

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

**CWP No.9897 of 2016
DECIDED ON: MAY 03, 2018**

BALKAR SINGH VIRDI

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Mohinder Pal, Advocate, for the petitioner.

Ms. Sunnit Kaur, AAG, Punjab.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought a writ in the nature of mandamus directing the respondents to release his retiral dues including GIS, amount of missing credit paid months in GPF Account and due interest on the retiral benefits like, GPF, leave encashment, Gratuity etc.

2. At the very outset, it has emerged that previously writ i.e. CWP No. 9172 of 2010 preferred by the petitioner was disposed of by this Court vide order dated 18.05.2010. The operative part of which reads as under:

“Having heard learned counsel for the petitioner and considering the nature of relief sought in this writ petition, I deem it appropriate to dispose of the same with a direction to respondents No.1 and 2 to release the petitioner's retiral dues unless there is some legal embargo, within a period of two months from the date of receiving a certified copy of this order, failing which, the petitioner shall be entitled to the interest @ 7% per annum on delayed payments.”

3. Subsequent to the afore-said order, petitioner was released the benefits and only the question which is being agitated by the petitioner is with regard to the grant of interest on the delayed payments. But this Court is not in agreement with the submission made by learned counsel for the petitioner in view of the disposal of earlier writ petition, i.e. CWP No. 9172 of 2010, preferred by the petitioner. The said petition was disposed of with the direction to make the payment of retiral dues within a period of two months and on failure petitioner shall be entitled to the interest @7% per annum on delayed payments. Meaning thereby, that the aspect of interest was already considered and dealt with by this Court while passing order dated 18.05.2010 in CWP No. 9172 of 2010

4. The said matter cannot be re-opened by filing a fresh petition. Further, if at all petitioner is aggrieved of the order dated 18.05.2010, he could have challenged the same by way of appeal or any other remedy, which was available to him under law. But nothing has been done. At the same time, it would also be pertinent to mention here that in view of Section 34 (2) of the CPC when no specific order has been made with regard to grant of interest, it is deemed to have been declined.

5. Thus, taking the case of the petitioner from any of the angles, instant petition is not legally and factually maintainable. Accordingly, it stands dismissed but not order as to costs.

MAY 03, 2018
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*