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

**CWP-10434-2023**

**Date of Decision:17.07.2023**

**SURENDER KUMAR**

..... Petitioner

*Versus*

**UNION OF INDIA AND OTHERS**

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present : Mr. Mandeep Singh, Advocate for  
Mr. Sandeep Siwatch, Advocate  
for the petitioner.

Mr. Vipul Aggarwal, Senior Panel Counsel  
for the respondents -UOI.

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**JAGMOHAN BANSAL, J. (Oral)**

1. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking setting aside of order dated 31.08.2020 (Annexure P-1), 15.02.2021 (Annexure P-2) and 17.03.2022 (Annexure P-3) whereby petitioner has been made to retire from service under Rule 26 of BSF Act and Rule made thereunder.

2. Learned counsel for the respondents at the outset submits that petitioner for the same grievance preferred CWP No.13356 of 2021 which was withdrawn without liberty to file afresh.

3. It is undisputed fact that petitioner for the same grievance, on the earlier occasion had filed aforesaid writ petition which came to be dismissed as withdrawn. Order dated 18.05.2022 passed by this Court reads as:

*“Learned counsel for the petitioner submits that keeping in view the reply filed, the petitioner does not wish to press this*

*petition and the same may kindly be disposed of as such.  
Ordered accordingly.”*

4.           Learned counsel for the petitioner on being confronted with aforesaid order submits that earlier petition was not adjudicated on merits, thus, present petition needs to be adjudicated on merits.
5.           The contention of learned counsel for the petitioner is misconceived. The petitioner has withdrawn writ petition without seeking liberty to file afresh, thus, he is estopped from filing fresh writ petition. The case of the petitioner is governed by principle of *res judicata* which is equally applicable to writ jurisdiction.
6.           Dismissed.

( JAGMOHAN BANSAL )  
JUDGE

17.07.2023  
*Ali*

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|---------------------------|---------------|
| Whether speaking/reasoned | Yes/No        |
| <i>Whether Reportable</i> | <i>Yes/No</i> |