



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1) CWP-3221-2016
Davinder SinghPetitioner
Versus
Indian Red Cross Society, District Branch Mansa and another ...Respondents

2) CWP-12169-2013
Harparveen KaurPetitioner
Versus
Indian Red Cross Society, District Branch Mansa and another ...Respondents

3) CWP-20616-2016 (O&M)
SunitaPetitioner
Versus
Indian Red Cross Society, District Branch Mansa and another ...Respondents

Reserved on: 30.10.2025
Pronounced on: 01.12.2025
Uploaded on: 02.12.2025

Whether only the operative part of the judgment is pronounced? No
Whether full judgment is pronounced? Yes

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: None for the petitioner
(in CWP-12169-2013).

Mr. A.K. Walia, Advocate
for the petitioner(s) (in CWP-3221-2016 &
CWP-20616-2016).

Mr. Vikas Arora, DAG, Punjab.

Mr. Vikas Chatrath, Senior Advocate with
Ms. Preet Agroa, Advocate and
Ms. Priya Kaushik, Advocate



for the respondents-Indian Red Cross.

Mr. J.S. Bhatia, Advocate
for the respondent-Bank.

HARPREET SINGH BRAR, J.

1. This order shall dispose of all the above mentioned writ petitions as they arise from a similar factual matrix and pose a common question of law.

However, for the sake of brevity, the facts are taken from CWP-3221-2016.

2. The present petition is filed under Article 226 of the Constitution of India seeking issuance of writ in the nature of *certiorari* for quashing the impugned order dated 02.04.2013 (Annexure P-14) whereby respondent No.1-Indian Red Cross Society has requested respondent No.2-Bank to consider adjusting the petitioner for employment for the lack of vacancies in the former and because their appointment was not made against sanctioned posts.

FACTUAL BACKGROUND

3. The respondent-Bank, vide letter dated 12.06.1997 (Annexure P-1) requested respondent-Indian Red Cross Society to appoint Clerks and send them on deputation to the former. Accordingly, respondent-Indian Red Cross Society published an advertisement dated 18.06.1997 (Annexure P-2) inviting applications for the post of Clerks. Pursuant to the said advertisement, the petitioner was hired as per the procedure laid down in the Indian Red Cross Society District Branch, Bathinda Service Rules. The appointment order dated 24.06.1997 of the petitioner is available as Annexure P-3. However, soon after his appointment, the petitioner was relieved vide letter dated 03.07.1997 (Annexure P-4) and deputed to respondent-Bank vide order dated 07.07.1997 (Annexure P-5).



4. Since his deputation, the petitioner had been working as a whole time Clerk with the respondent-Bank, performing duties similar to those of other Clerks therein. The petitioner approached the District Commission, in his capacity as the President of the respondent-Indian Red Cross Society requesting to be absorbed back into the Society. However, they were sent back to the respondent-Bank, extending their deputation period from time to time. The petitioner also submitted various representations requesting for equal pay for equal work, being a regularized employee since the completion of his probation, but to no avail. Aggrieved, the petitioner approached the Punjab State Human Rights Commission which issued a recommendation dated 26.08.2004 (Annexure P-10) to respondent No.1 to absorb him as and when posts fall vacant. Subsequently, the petitioner approached this Court by means of *CWP-16275-2012* titled '*Davinder Singh and others vs. Satluj Gramin Bank and others*' which was dismissed as withdrawn with liberty to avail appropriate remedy vide order dated 01.03.2013 (Annexure P-11). Thereafter, the respondent-Bank repatriated the petitioner to his parent organization i.e. respondent No.1-Indian Red Cross Society vide order dated 01.04.2013 (Annexure P-12).

5. On 02.04.2013, the petitioner reached the office of respondent No.1 to join duty but was not allowed to do so. Vide impugned order dated 02.04.2013 (Annexure P-14), respondent No.1 requested the respondent-Bank to consider adjusting the petitioner in its office where he has served for 16 years, as no vacancies existed with the former. Further, it was also mentioned that the petitioner was not appointed against any sanctioned post but was recruited against vacancies in the respondent-Bank. Hence, the present writ petition.



CONTENTIONS

6. Learned counsel for the petitioner *inter alia* contended that the petitioner has been abandoned by both the respondents as respondent No.2-Bank repatriated him to his parent organization i.e. respondent No.1-Indian Red Cross Society vide order dated 01.04.2013 (Annexure P-12). The said order was passed in contravention of principles of natural justice as neither was the petitioner provided with an opportunity to be heard nor was a show cause notice ever served on him. Vide impugned letter dated 02.04.2013 (Annexure P-14), respondent No.1 concedes that the petitioner had been working with respondent No.2-Bank for about 16 years and that his recruitment was made against the vacancies in the respondent-Bank. Since no vacancies were available with the respondent-Indian Red Cross Society, it practically refused to take the petitioner back; rather a request was made to adjust him in the office of respondent-Bank.

7. It was further submitted that the petitioner was appointed on a temporary basis with a probation period of 02 years. Therefore, after completion of the probation period, the petitioner is entitled to be treated as regular/confirmed employee of respondent-Indian Red Cross Society and to the regular pay scale for the post of Clerk from the date of his appointment. Further, it was respondent No.1-Indian Red Cross Society that had been extending the deputation period of the petitioner from time to time for the benefit of the respondent-Bank. Admittedly, the petitioner was appointed as a Clerk by respondent No.1-Indian Red Cross Society at the instance of respondent No.2-Bank and he had been discharging the duties of a Clerk with the latter. As such, he ought to be granted regular pay scale for the said post by



the respondent No.2-Bank on the principle of equal pay for equal work, as well as deputation allowance, cash allowance and computer allowance as paid to Clerks working as Cashiers in the respondent-Bank. The salary of the petitioner was paid by the respondent-Bank however, the term ‘deputationist’ was added to the post of the petitioner to provide an excuse to the respondent-Bank to not regularize him in spite of the permanent nature of his work and continuous service. As a matter of fact, the Clerks who were appointed in the year 1997 or later by both respondent-Society and respondent-Bank, respectively have been continuing in service and have earned multiple promotions and financial benefits while the petitioner has been forced to serve at fixed salary, without any promotional avenues.

8. *Per contra*, learned senior counsel for the respondent-Indian Red Cross Society as well as counsel for the respondent-Bank *inter alia* contended that the present writ petition is not maintainable as a similar petition i.e., **CWP-16275-2012**, on the same subject matter, filed by the petitioner was dismissed as withdrawn vide order dated 01.03.2013 (Annexure P-11). However, no liberty was granted to the petitioners therein to agitate the same claim before this Court. Rather, the liberty granted was with respect to seeking an “*appropriate remedy in accordance with law.*”

OBSERVATIONS AND ANALYSIS

9. I have heard the learned counsel for the parties and have perused the record with their able assistance. In the present case, the petitioner(s) had previously moved this Court vide **CWP No. 16275 of 2012**, titled as ‘***Davinder Singh And Ors. vs. Indian Red Cross Society Distt. Branch Mansa And Ors.***’

The aforesaid petition was dismissed as withdrawn vide order dated 01.03.2013



(Annexure P-11) without liberty to file a fresh petition on the same subject matter. The said order is reproduced below:

*“ Counsel for the petitioners states that the petitioners be allowed to withdraw the present petition with liberty to seek an appropriate remedy in accordance with law.
Ordered accordingly.”*

10. It is settled law that a fresh writ petition is not maintainable in respect of the same subject-matter if the earlier writ petition had been withdrawn without obtaining permission of the Court to file a fresh petition. A two-Judge Bench of the Hon’ble Supreme Court in ***Sarguja Transport Service vs. State Transport Appellate Tribunal, Gwalior, 1987(1) SCC 5***, speaking through Justice E.S Venkataramiah, has observed as follows:

*“9. The point for consideration is whether a petitioner after withdrawing a writ petition filed by him in the High Court under Article 226 of the Constitution of India without the permission to institute a fresh petition can file a fresh writ petition in the High Court under that Article. On this point the decision in Daryao's case (supra) is of no assistance. **But we are of the view that the principle underlying Rule 1 Order 23 of the Code should be extended in the interests of administration of justice to cases of withdrawal of writ petition also, not on the ground of res judicata but on the ground of public policy as explained above. It would also discourage the litigant from indulging in bench-hunting tactics. In any event there is no justifiable reason in such a case to permit a petitioner to invoke the extraordinary jurisdiction of the High Court under Article 226 of the Constitution once again. While the withdrawal of a writ petition filed in High Court without permission to file a fresh writ petition may not bar other remedies like a suit or a petition under Article 32 of the Constitution since such withdrawal does not amount to res judicata, the remedy under Article 226 of the Constitution should be deemed to have been abandoned by the petitioner in respect of the cause of action relied on in the writ petition when he withdraws it without such permission. In the instant case the High Court was right in holding that a fresh writ petition was not maintainable before it in respect of the same subject-matter since the earlier writ petition had been withdrawn without permission to file a***



fresh petition. We, however, make it clear that whatever we have stated in this order may not be considered as being applicable to a writ petition involving the personal liberty of an individual in which the petitioner prays for the issue of a writ in the nature of habeas corpus or seeks to enforce the fundamental right guaranteed under Article 21 of the Constitution since such a case stands on a different footing altogether. We, however, leave this question open.” (emphasis supplied)

11. Furthermore, a Division Bench of this Court in ***Sukhbir Kaur vs. State of Punjab 1996(4) SCT 781***, while relying on the judgment of the Hon’ble Apex Court in ***Sarguja Transport Service (supra)*** reiterated this position of law. Speaking through Justice G.S. Singhvi, the following was held:

“5. Since there is nothing in the order dated 20.8.1996 to indicate that the writ petition was withdrawn with liberty to approach the departmental authorities or with permission to institute a fresh petition, the dismissal of writ petition on 20.8.1996 will have to be treated as unconditional. We cannot accept the submission of the learned counsel for the petitioner that in addition to what has been recorded in the order sheet dated 20.8.1996 the court had made some observations which should be read as a part of the order of the court and relief should be given to the petitioner ignoring the fact that previous writ petition filed on the same subject matter stands dismissed as withdrawn.

6. In *State of Maharashtra v. Ram Dass Shrinivas Nayak and another*, AIR 1982 Supreme Court 1249, a similar attempt was made before the Apex Court to dra the court into controversy about the exact happening in the proceedings of the High Court. Their Lordships repelled such attempt by observing:

“The court is bound to accept the statement of the Judges recorded in their judgment, as to what transpired in court. It cannot allow the statement of the Judges to be contradicted by statements at the Bar or by affidavit and other evidence. If the Judges say in their judgment that something was done, said or admitted before them, that has to be the last word on the subject. The principle is well settled that statement of fact as to what transpired at the hearing, recorded in the judgment of the court, are conclusive of the facts so stated and no one can contradict such statements by affidavit or other evidence. If a party thinks



that the happenings in court have been wrongly recorded in a judgment, it is incumbent upon the party, while the matter is still fresh in the minds of the Judges, to call the attention of the very Judges who have made the record to the fact that the statement made with regard to his conduct was a statement that had been made in error. That is the only way to have the record corrected. If no such step is taken, the matter must necessarily end there."

Since the writ petition No. 12632 of 1996 was dismissed as withdrawn on the request made by the learned counsel for the petitioner and no permission was given to the petitioner to institute fresh writ petition on the same subject matter, we have no hesitation to dismiss this writ petition as not maintainable in view of the law laid down by the Supreme Court in Sarguja Transport Service v. State Transport Appellate Tribunal, Gwalior and others, AIR 1987 Supreme Court 88, wherein their Lordships observed as under:

"In order to prevent a litigant from abusing the process of the court by instituting suits again and again in the same cause of action without any good reason the Civil Procedure Code insists that he should obtain the permission of the court to file a fresh suit after establishing either of the two grounds mentioned in Order 23 Rule 1(3). The principle underlying the above rule is founded on public policy, but it is not the same as the rule of res judicata. This principles underlying Rule 1 of Order 23 should be extended in the interests of administration of justice to cases of withdrawal of writ petition also, not on the ground of res judicata but on the ground of public policy. That would also discourage the litigant from indulging in bench hunting tactics. In any event there is no justifiable reason in such a case to permit a petitioner to invoke the extraordinary jurisdiction of the High Court under Article 226 once again. While the withdrawal of a writ petition filed in a High Court without permission to file a fresh writ petition may not bar other remedies like a suit or a petition under Article 32 since such withdrawal does not amount to res judicata, the remedy under Article 226 should be deemed to have been abandoned by the petitioner in respect of the cause of action relied on in the writ."

For the reason enumerated above, the writ petition is dismissed."

(Emphasis supplied)



CONCLUSION

12. Clearly, **CWP No. 16275 of 2012** was dismissed as withdrawn vide order dated 01.03.2013 without any liberty to file a fresh petition on the same subject matter. As such, the present petition cannot be entertained by this Court in terms of the settled law. Accordingly, without going further into the merits of the case, the present writ petitions deserve to be dismissed. Pending miscellaneous applications, if any, shall also stand disposed of.

13. Photocopy of this order be placed on the files of the connected cases.

(HARPREET SINGH BRAR)
JUDGE

01.12.2025

Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No