



CWP-15529-2025

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

(267)

CWP-15529-2025

Date of Decision : 10.02.2026

Yogender Kumar

...Petitioner

Versus

District and Sessions Judge, Hisar

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Ms. Divya Arora, Advocate
Ms. Aakriti Mittal, Advocate and
Mr. Gaurav Tuteja, Advocate
for the petitioner.

Ms. Ridhi Bansal, Advocate
for the respondent.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant writ petition, cast under Article 226/227 of the Constitution of India, challenge is thrown to the order dated 16.12.2022 (Annexure P-7), as passed by the respondent, whereby, the claim of the petitioner for releasing salary for the period from 24.10.2020 to 18.02.2021, has been declined.

2. Succinctly put, the petitioner was ordered to be prematurely retired on 24.07.2020 (Annexure P-1), by the respondent, and thereafter, the petitioner challenged the said order, by filing CWP-15057-2020, before this Court, which was allowed and the order of premature retirement was set aside, through an order dated 12.02.2021 (Annexure P-3), passed by the Coordinate Bench of this Court. However, liberty was afforded to the respondent, to issue

show cause notice, or pass a fresh order as per the Rules, after giving due



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opportunity of hearing to the petitioner. The legality of the said order was further challenged by filing an intra Court appeal, LPA No.399-2021, which was also dismissed, vide order dated 10.11.2021 (Annexure P-4). Thereafter, the respondent/department, served a fresh show cause notice dated 14.03.2022 (Annexure R-5), and thereafter, the authorities concerned again passed an order of premature retirement, vide order dated 04.04.2022 (Annexure R-6). The said order was also put to challenge by filing CWP-13798-2022, before this Court. However, the said writ petition was dismissed, as having been rendered infructuous, vide order dated 19.05.2025 (Annexure R-7), passed by the Coordinate Bench of this Court. Hence, the instant writ petition has been filed.

3. This Court, at the outset, has confronted the learned counsel for the petitioner, as to how, the instant writ petition is maintainable, in view of principles of constructive *res judicata*. It is submitted that no cause of action arisen for the petitioner to challenge the order dated 16.12.2022 (Annexure P-7), as the same was decided after filing of CWP-13798-2022. This Court finds that the submissions so made by learned counsel for the petitioner, does not carry any merit. The cause of action, with regard to non-payment of the salary from 24.10.2020 to 18.02.2021, was already in existence. However, the petitioner opted not to make any prayer with regard to the same, in the earlier rounds of litigation, and therefore, now in the third round of litigation, the petitioner cannot raise this plea. The only object of Order II Rule 2 of Civil Procedure Code, 1908, is to curb the multiple litigations. The petitioner, ought to have raised this issue at the time of filing the second writ petition, but he opted not to, and therefore, the instant writ petition is not maintainable.



4. The contention of the petitioner that the order impugned was passed post filing of the earlier writ petition(s), which in consideration of this Court, does not carry any weight, as this order has to pass by the authorities concerned, on the fresh application preferred by the petitioner. In this way, by filing a fresh petition, the petitioner cannot escape from the rigors of principles of constructive *res judicata*. Accordingly, the instant writ petition is not maintainable, being directly hit by the principles of constructive *res judicata*.
5. Consequently, the instant writ petition is **dismissed**.

(KULDEEP TIWARI)
JUDGE

February 10, 2026
Manpreet

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