

CWP-20556-2023 (O&M)

2026.PHHC:064416



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

128+238

CWP-20556-2023 (O&M)
Date of Decision: **27.04.2026**

Swaran Singh Jandu

.....Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Jatinder Jit Singh with Ms. Jaspreet Kaur Sandhu,
Advocates for the petitioner.

Mr. Amit Shukla, DAG Punjab-State.

Mr. Ashish Verma, Advocate for respondents No.3 and 4-MC.

HARPREET SINGH BRAR, J. (Oral)

CM-6508-CWP-2026

The present application has been filed under Section 151 of CPC for placing on record the replication to the written statement filed on behalf of respondent No.3 along with Annexure P-7, to the captioned petition.

In view of the grounds mentioned in the application, the same is allowed, replication to the written statement filed on behalf of respondent

2026.PHHC.064416



No.3 along with Annexure P-7 is taken on record, subject to all just exceptions.

Registry is directed to place the same at an appropriate place.

MAIN

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India with a prayer for issuance of an appropriate writ in the nature of mandamus directing the respondents to release the total amount of interest on account of delay in payment of arrears of pension, in purported compliance of the orders passed by this Court in LPA-1008-2002, decided on 02.04.2014 (Annexure P-1), as well as in further compliance of the directions issued in CWP-24071-2016, decided on 09.12.2019 (Annexure P-2), whereby the respondents were directed to calculate interest @ 7% per annum from the date of retirement till the actual date of disbursement.

2. Learned counsel for the petitioner, *inter alia*, submits that the petitioner initially joined service as a Sub-Divisional Engineer in the Punjab Water Supply & Sewerage Board and, upon earning successive promotions, ultimately superannuated on 31.05.2001 on attaining the age of superannuation from the post of Superintending Engineer/Additional Commissioner. It is contended that during the tenure of his service, the petitioner was granted the benefit of regularization for the period from 17.02.1966 to 03.11.1978 vide order dated 15.03.2000 for the purpose of counting the said period towards qualifying service for pensionary benefits. However, the aforesaid order of regularization was subsequently withdrawn vide order dated 29.08.2001, compelling the petitioner to file CWP-14392-

2026.PHHC.064416



2001, which came to be dismissed by this Court on 06.05.2002. Aggrieved thereof, the petitioner preferred LPA-1008-2002, which ultimately came to be allowed vide judgment dated 02.04.2014 (Annexure P-1).

2.1 It is further submitted that, in purported compliance of the directions issued in the said LPA, the respondents released arrears of pension amounting to Rs.13,77,585/- on 13.08.2014; however, the same was paid without any interest. Aggrieved by the non-payment of interest on delayed disbursement, the petitioner instituted CWP-24071-2016, which was disposed of by this Court vide order dated 09.12.2019 (Annexure P-2), directing the respondents to calculate and release interest @ 7% per annum on the arrears of pension already paid. It is further averred that, on account of alleged non-compliance, the petitioner initiated contempt proceedings by filing COCP-1579-2020, preceded by a legal notice dated 12.06.2020 (Annexure P-4). During the pendency of the said contempt petition, the respondents released an amount of Rs.4,68,600/- on 27.10.2020 towards interest, whereupon the contempt petition was rendered infructuous vide order dated 12.05.2023 (Annexure P-5), with liberty to the petitioner to avail alternative remedies. Thereafter, the petitioner served a fresh legal notice dated 24.07.2023 (Annexure P-6), raising a further demand of Rs.32,46,220/-.

3. *Per contra*, learned counsel for respondents No.3 and 4 opposes the prayer made by the learned counsel for the petitioner and submits that the petitioner, having retired from service on 31.05.2001, has already been extended all admissible benefits strictly in terms of the judicial directions

2026.PHHC.064416



issued by this Court from time to time. It is contended that while disposing of LPA-1008-2002 vide order dated 02.04.2014 (Annexure P-1), this Court had not granted any interest and had merely directed reconsideration of the petitioner's claim after affording an opportunity of personal hearing. Thereafter, in CWP-24071-2016 (Annexure P-2), this Court specifically directed payment of interest @ 7% per annum on the arrears of pension, which direction has been duly complied with.

4. It is further submitted that the petitioner, despite having received the principal arrears amounting to Rs.13,77,585/- as well as interest amounting to Rs.4,68,600/-, has continued to agitate the matter without any justifiable cause. It is argued that the present claim is, in essence, a claim for "interest upon interest," which is neither envisaged in the earlier orders passed by this Court nor permissible under settled principles of law. It is also contended that at the time of disposal of the contempt petition, no objection was raised by the petitioner with regard to any surviving grievance, and therefore, the present petition is liable to be dismissed.

5. In rebuttal, learned counsel for the petitioner disputes the submissions advanced on behalf of respondents No.3 and 4 and contends that the respondents have failed to correctly compute the amount of interest payable. Reliance has been placed upon the calculation sheet annexed as Annexure P-6 to substantiate the claim that further amounts are still due and payable.

6. Having heard learned counsel for the parties and upon perusal of the record with their able assistance, it emerges that the petitioner retired

2026.PHHC.064416



from service on 31.05.2001 and his claim with regard to counting of past service stood adjudicated upon in LPA-1008-2002, decided on 02.04.2014 (Annexure P-1), wherein the respondents were directed to reconsider the case of the petitioner after affording him an opportunity of personal hearing. It is an admitted and undisputed position that, in purported compliance of the said judgment, the respondents released arrears of pension amounting to Rs.13,77,585/- to the petitioner on 13.08.2014.

6.1 Thereafter, the petitioner approached this Court by filing CWP-24071-2016 seeking grant of interest on the delayed payment of arrears of pension, which came to be disposed of vide order dated 09.12.2019 (Annexure P-2), whereby the respondents were directed to calculate and release interest @ 7% per annum on the amount of arrears within a period of three months. It further transpires that the petitioner, expressing dissatisfaction with the alleged non-compliance, instituted contempt proceedings by way of COCP-1579-2020. During the pendency of the said contempt petition, the respondents released an amount of approximately Rs.4,68,600/- towards interest, and the contempt petition was ultimately rendered infructuous vide order dated 12.05.2023 (Annexure P-5), while granting liberty to the petitioner to avail alternative remedy.

6.2 From the aforesaid sequence of events, it is evident that the petitioner has received a cumulative amount exceeding Rs.18,00,000/- on account of arrears of pension as well as interest thereon. Despite this, the petitioner has once again invoked the writ jurisdiction of this Court claiming an additional amount of Rs.32,46,220/-, which, prima facie, appears to be in

2026.PHHC.064416



the nature of a claim for further/compound interest over and above what has already been granted and paid in compliance of the earlier judicial directions.

6.3 In the considered opinion of this Court, the aforesaid claim not only travels beyond the scope of the directions issued in the earlier rounds of litigation but also gives rise to disputed questions of fact, particularly with regard to the correctness of the computation of interest and the basis of the further demand now raised by the petitioner. Such disputed and contentious issues, requiring detailed examination of calculations and factual adjudication, cannot be appropriately determined in proceedings under Article 226 of the Constitution of India.

6.4 Moreover, the petitioner, having accepted the amount released during the pendency of the contempt proceedings without raising any contemporaneous objection and the contempt petition having been rendered infructuous, cannot be permitted to reagitate the matter in the present proceedings on the same cause of action.

7. The principal grievance now raised by the petitioner pertains to the alleged incorrect computation of interest and a further claim of a substantial amount, which, in the considered opinion of this Court, involves disputed questions of fact requiring detailed examination of accounts and calculations. Such an exercise cannot be conveniently undertaken in writ jurisdiction under Article 226 of the Constitution of India. Moreover, the claim, as projected, appears to be in the nature of a demand for compound interest, which is not sustainable in the absence of any specific direction or

2026.PHHC.064416



statutory provision.

8. Moreover, the issues raised in the present writ petition entail adjudication of disputed questions of fact, which would require appreciation of evidence, an exercise that this Court, while exercising its jurisdiction under Article 226 of the Constitution of India, is not equipped to undertake.

9. It is settled law that where disputed questions of facts are involved, a petition under Article 226 of the Constitution of India is not the proper remedy. A two-Judge Bench of the Hon'ble Supreme Court in ***S.P.S. Rathore v. State of Haryana, (2005) 10 SCC 1***, speaking through Justice Y.K. Sabharwal, has held as follows:

"16. In Chairman, Grid Corpn. of Orissa Ltd. (Gridco) v. Sukamani Das [(1999) 7 SCC 298] the question which arose for consideration was, can the High Court under Article 226 of the Constitution award compensation for death caused due to electrocution on account of negligence, when the liability was emphatically denied on the ground that the death had not occurred as a result of negligence, but because of an act of God or of acts of some other persons. The Court held that it is the settled legal position that where disputed questions of facts are involved, a petition under Article 226 of the Constitution is not a proper remedy. Therefore, questions as to whether death occurred due to negligence or due to act of God or of some third person could not be decided properly on the basis of affidavits only, but should be decided by the civil court after appreciating the evidence adduced by the parties. In T.N. Electricity Board v. Sumathi [(2000) 4 SCC 543] it was held that when a disputed question of fact arises and there is clear denial of any tortious liability, remedy under Article 226 of the Constitution may not be proper. The Court carved out exception to this general rule by observing that, it should not be understood that in every case of tortious liability, recourse must be had to a suit. When there is negligence on the face of it and infringement of Article 21 is there, it cannot be said that there

2026.PHHC.064416



will be any bar to proceed under Article 226 of the Constitution."

10. Further a two-Judge Bench of the Hon'ble Apex Court in

Orissa Agro Industries Corporation Ltd. Vs. Bharati Industries 2005 (12)

725 while speaking through Justice Arijit Pasayat, observed that as follows:

*"9. A bare perusal of the High Court's judgment shows that there was clear non-application of mind. On one hand the High Court observed that the disputed questions cannot be gone into a writ petition. It was also noticed that essence of dispute was breach of contract. After coming to the above conclusions the High Court should have dismissed the writ petition. Surprisingly, the High Court proceeded to examine the case solely on the writ petitioner's assertion and on a very curious reasoning that though the appellant-Corporation claimed that the value of articles lifted was nearly rupees 14.90 lakhs no details were specifically given. From the counter-affidavit filed before the High Court it is crystal clear that relevant details disputing claim of the writ petitioner were given. Value of articles lifted by the writ petitioner is a disputed factual question. **Where a complicated question of fact is involved and the matter requires thorough proof on factual aspects, the High Court should not entertain the writ petition. Whether or not the High Court should exercise jurisdiction under Article 226 of the Constitution would largely depend upon the nature of dispute and if the dispute cannot be resolved without going into the factual controversy, the High Court should not entertain the writ petition.** As noted above, the writ petition was primarily founded on allegation of breach of contract. Question whether the action of the opposite party in the writ petition amounted to breach of contractual obligation ultimately depends on facts and would require material evidence to be scrutinised and in such a case writ jurisdiction should not be exercised. (See : State of Bihar v. Jain Plastic & Chemicals Ltd., 2002(1) SCC 216).*

10. In a catena of cases this Court has held that where dispute revolves round questions of fact, the matter ought not be entertained under Article 226 of the Constitution. (See : Chairman, Grid Corporation of Orissa Ltd. (GRIDCO) and Ors. v. Sukamani Das (Smt.) and Anr., 1999(4) RCR (Civil) 174 (SC) : (1999(7) SCC 298)."

2026.PHHC.064416



11. A Two-Judge bench of the Hon'ble Supreme Court in *Chairman, Grid Corporation of Orissa Ltd. (Gridco) Vs. Smt. Sukamani Das 1999 (7) SCC 298*, while speaking through Justice G.T Nanavati made the following observations:

*“6. In our opinion, the High Court committed an error in entertaining the writ petitions even though they were not fit cases for exercising power under Article 226 of the Constitution. The High Court went wrong in proceeding on the basis that as the deaths had taken place because of electrocution as a result of the deceased coming into contact with snapped live wires of the electric transmission lines of the appellants, that "admittedly/prima facie amounted to negligence on the part of the appellants". The High Court failed to appreciate that all these cases were actions in tort and negligence was required to be established firstly by the claimants. Mere fact that the wire of the electric transmission line belonging to the appellant No. 1 had snapped and the deceased had come into contact with it and had died was not by itself sufficient for awarding compensation. It also required to be examined whether the wire had snapped as a result of any negligence of the appellants and under which circumstances the deceased had come into contact with the wire. In view of the specific defences raised by the appellants in each of these cases they deserved an opportunity to prove that proper care and precautions were taken in maintaining the transmission lines and yet the wires had snapped because of circumstances beyond their control or unauthorised intervention of third parties or that the deceased had not died in the manner stated by the petitioners. These questions could not have been decided properly on the basis of affidavits only. **It is the settled legal position that where disputed questions of facts are involved a petition under Article 226 of the Constitution is not a proper remedy.** The High Court has not and could not have held that the disputes in these cases were raised for the sake of raising them and that there was no substance therein. The High Court should have directed the writ petitioners to approach the Civil Court as it was done in OJC No. 5229 of 1995.”*

2026.PHHC.064416



12. Reliance in this regard may be placed on the judgement rendered by the Hon'ble Apex Court in *Shubhas Jain v. Rajeshwari Shivam*, 2021 SCC Online SC 562 , *Union of India v. Puna Hinda*, (2021) 10 SCC 690 and of this Court in *Sanchalakshri v. Vijayakumar Raghuvirprasad Mehta and another*, 1999(1) SCT 88 (SC) : JT 1998(8) SC 55.

13. Furthermore, 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

2026.PHHC.064416



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)

14. 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 un-conditional. 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.

2026.PHHC.064416



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

2026.PHHC.064416



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)

15. It is trite that a writ court does not function as a court of first instance to adjudicate upon intricate and disputed questions of fact, particularly where determination of such issues necessitates detailed scrutiny of evidence and accounts.

16. Accordingly, in view of the aforesaid facts and settled legal position, no ground for interference is made out. The present writ petition is hereby dismissed.

17. All pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

27.04.2026

Puneet Chawla

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No