

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 15123 of 2015

Date of Decision : September 14, 2015

Yash Paul Hampaul		Petitioner
Vs.		
State of Punjab and others		Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. R. K. Arora, Advocate
for the petitioner.

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DEEPAK SIBAL, J. :

Through the present petition, the petitioner seeks quashing of order dated 16.12.2013 (Annexure P-15), through which, his entire service rendered prior to 28.02.1997, has been ordered to be forfeited. The petitioner further prays for the issuance of a direction to the respondents to pay his retiral benefits.

The undisputed facts, which have emerged from the perusal of the record and after hearing counsel for the petitioner are that the petitioner

joined the service of the respondent as a Hindi Teacher in the year 1975. In the year 1996, he sought and got sanctioned leave till 28.02.1997.

It is not disputed that since 01.03.1997 till the date of his superannuation i.e. 31.05.2007 – for over a decade, the petitioner was unauthorizedly absent from duty. As per his own saying, he had gone abroad. The above unauthorized absence for over a decade would, according to me, amount to abandonment on the part of the petitioner, and therefore, the employer, on account of the above referred highly irresponsible behaviour on the part of the petitioner, rightly ordered the forfeiture of his service prior to 28.02.1997.

A perusal of the record further shows that for over a decade, the petitioner enjoyed his life in the United States of America and never bothered for his responsibilities as an employee of the respondent State of Punjab. It is absolutely unbecoming of a Government servant to remain unauthorizedly absent for over a decade without any sort of permission from his employer. For such regrettable behaviour on the part of the petitioner, he deserves no sympathy.

Counsel for the petitioner challenges the punishment meted out to the petitioner on the ground that before ordering such punishment, no departmental inquiry was conducted against the petitioner.

The unauthorized absence on the part of the petitioner for about a decade is admitted. Counsel for the petitioner states that though

for some time, the petitioner was in India, even today he is abroad.

The petitioner had clearly abandoned his job, for which, in the peculiar facts of the case in hand, no departmental inquiry was necessary. This view of mine finds support from the judgment of the Apex Court in **Sahoodul Haque v. The Registrar, Co-operative Societies, Bihar and another** reported as **1975 (3) SCC 108**, relevant portion of which is reproduced below for ready reference :-

“4. In any case, on the facts before us, we think that it will be useless to afford any further opportunity to the appellant to show cause why he should not be removed from service. The undenied and undeniable fact that the appellant had actually abandoned his post of duty for an exceedingly long period, without sufficient grounds for his absence, is so glaring that giving him further opportunity to disprove what he practically admits could serve no useful purpose. It could not benefit him or make any difference to the order which could be and has been passed against him. It would only prolong his agony.”

To the same effect is another judgment of the Apex Court in the case of M/s Jeewanlal (1929) Ltd., Calcutta vs. Its Workmen reported as AIR 1961 SC 1567, wherein it was held as under :-

“..... there would be the class of cases where long unauthorised absence may reasonably give rise to an inference that such service is intended to be abandoned by the employee.”

In view of the above, finding no merit in the present petition, the same is ordered to be dismissed. However, counsel for the petitioner states that the General Provident Fund of the petitioner has not been released. If that is so, the petitioner may apply for the same to the respondents, which application would be considered and decided by the respondents by passing a well-reasoned and speaking order, in accordance with law.

(DEEPAK SIBAL)
JUDGE

September 14, 2015
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