

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

CWP NO. 20741 of 2014

DATE OF DECISION: - 24.4.2015

Nar Singh

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM: - HON'BLE MR. JUSTICE AJAY TEWARI

Present: - Mr. S.K.Verma, Advocate for the petitioner.

Ms. Shruti Goyal, AAG, Haryana

Mr. Harender Singh Advocate for respondent No. 6.

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J (ORAL)

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By this petition, petitioner has claimed a mandamus directing respondents No. 1 to 5 to allow the petitioner to join his duty and to release salary for the period w.e.f. 1.6.2014 till date.

The brief facts are that the petitioner is a regular employee with the respondent No. 5 and did not come to office w.e.f. 6.6.2014 to 18.9.2014. It is his case that during this period, he was unwell and had been sending applications for leave. However, it is a case of the respondents that the petitioner did not move any application for leave in the correct format

nor appended the proper medical certificates.

Be that as it may, the petitioner appeared in office on 19.9.2014 and requested the officers to allow him to join duty. However, he was not allowed to join duty, and a month later on 29.10.2014 was placed under suspension after the notice in the present case was received.

The issue is *whether the petitioner could be restrained from joining on 19.9.2014 or not*. Learned AAG, Haryana has contended that the respondents were within their right to prevent the petitioner from joining since his leave had neither been sanctioned nor he applied in the proper format & appended the necessary medical certificates.

In my opinion, this argument is incorrect. The petitioner may have been liable for disciplinary action but he could not be stopped from rejoining his duty. Even if an employee leaves his office without any application and comes back after 3, 4 or 5 months, he cannot be stopped from joining his duty. He may be liable for any disciplinary action for his lapses but his status as a government servant cannot be just terminated like this.

In the said circumstances, the action of the respondents in not permitting the petitioner to join his duty when he had reported has to be held to be illegal.

Consequently, the petition is allowed to the extent that the petitioner would be deemed to have joined w.e.f. 19.9.2014 and he is entitled to all consequential benefits accrued to him therefrom. As regards the period of 5.6.2014 to 18.9.2014, the respondents are at liberty to proceed against the petitioner and his entitlement for the remuneration for that

period could depend upon the outcome of that proceeding.

Allowed as above.

[AJAY TEWARI]
JUDGE

24.4 2015
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