

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

Date of decision: 09.08.2016

CWP No.2914 of 1998

Jage Ram

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. A.S.Tewatia, Advocate, for the petitioner.

Ms. Shruti Jain Goel, AAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

Having read the impugned order dated 25.07.1992, endorsed on 17.08.1992, passed by the Chief Engineer (Canals), Irrigation Department, Haryana, I have no hesitation in dismissing this petition, when the competent authority treated the period 11.04.1984 to 30.09.1991 as period of unauthorized absence, which has been held not to be treated as qualifying service for purposes of pension and retirement benefits. In other words, what the competent authority has actually meant is that period of absence without leave will be treated as *dies non*.

There is no manner of doubt that upon reversion to the lower post, the petitioner did not report for duty throughout the aforesaid period spanning over seven years. The petitioner should have obeyed the reversion order, even if he was already before this court in the earlier writ petition bearing CWP No.1799 of 1984 questioning the orders of reversion dated 30.03.1984. The petitioner was relieved from duty of the higher post on reversion on 11.04.1984 and the status quo order was passed by this Court

on 19.04.1984. Thus, the status quo order was passed 7 days after the reversion took place which would not secure to the petitioner protection just as a stay order passed by this Court would. No explanation whatsoever was furnished by the petitioner for such a long absence to justify withholding of labour on which salary is based except a belligerent attitude and, therefore, I would not interfere in the matter. Moreover, this court would decline relief also for the reason that this court will not consider putting premium on misconduct. If the period of absence has been blacked out for purposes of pension by the impugned order the petitioner has no one to blame except himself. In any case, the petitioner stood retired from service on 31.12.1991 on reaching the age of superannuation soon thereafter and should be thankful he was not dismissed from service. Fortunately for the petitioner the impugned reversion order was withdrawn by the Government on 01.10.1991 before he retired while his joining report was entered on 28.10.1991.

The only issue presented for determination in this case is with regard to right to pension for counting the period of seven years as reckonable service and the question of validity of reversion order has paled into insignificance. The petitioner had no right to hold the higher post. Anyway, enormous absence from duty is normally regarded as abandonment of service and the petitioner should be satisfied, if such a declaration was or is not given, either by the Administrator or by the Court, when it could well have been.

Consequently, the present writ petition is hereby dismissed since it is found without any merit.

09.08.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No