

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

**Civil Writ Petition No.16321 of 2016
Date of Decision: 11.08.2016**

Joginder Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. V.M.Handa, Advocate for the petitioner.

JASWANT SINGH, J. (Oral)

The petitioner-Joginder Singh was engaged as a Math Teacher on 06.09.1976 on *Ad hoc* basis for six months with the Education Department (School Cadre). His services were regularized w.e.f. 01.10.1980. He proceeded to U.S.A. after obtaining N.O.C. from the Department on 07.02.1998 on allegedly sanctioned leave for two months. Thereafter from abroad, he claims that he continued seeking extension of leave. It is stated that he finally came back in the year 2010 and could not join the service as he had already reached the age of superannuation w.e.f. 30.09.2008.

The challenge in the present petition is to the order dated 16.11.2012 (**Annexure P-1**), whereby for having remained absent from his duty w.e.f. 01.06.1998 to 30.09.2008 for almost 10 years, the previous service rendered by him was ordered to be forfeited as per Rule 3.17 of the Punjab C. S. R. Vol.II.

Learned Counsel for the petitioner has argued that his period of absence could not be construed as willful due to his domestic circumstances

and the fact that he continued to apply for extension of leave. He further

submits that neither the respondents concluded the departmental enquiry nor was given any opportunity before passing of the impugned order (P-1).

After hearing learned Counsel for the petitioner, no case for interference is made out at all.

Firstly, the present petition itself has been filed through a power of attorney as the petitioner is stated to be residing in U.S.A. It is also not disputed that the petitioner is residing in U.S.A. since the year 1998 and, therefore, raises a sustainable interference that he in all probability has acquired the residency status, if not the nationality of U.S.A. This observation has been recorded as on a pointed query, learned Counsel for the petitioner had expressed his inability to provide an answer. That apart, the very conduct of the petitioner shows that the petitioner had abandoned his services, as held by the Hon'ble Supreme Court in a similar circumstance in **Vijay S. Sathaye Vs. Indian Airlines Ltd. & Ors., 2013 (10) SCC 253**. Still further, even a suit would not be maintainable in challenge to the order at **P-1** due to the expiry of three years' period of seeking a declaration.

In view of the above, the present petition stands dismissed with costs of Rs.50,000/- as costs to be deposited within three months from today with the District Legal Services Authority, Kapurthala. Failing which, the Member Secretary, DLSA, Kapurthala shall take steps to recover the same as arrears of land revenue.

August 11, 2016

Gagan

(JASWANT SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No