

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

Date of decision: 13.05.2016

CWP No.9385 of 2016

Jagtar Singh

...Petitioner

Vs.

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Gurmohan Singh Bedi, Advocate, for the petitioner.

1. *To be referred to the Reporters or not?*
2. *Whether the judgment should be reported in the Digest?*

RAJIV NARAIN RAINA, J. (ORAL)

The petitioner served with the Department of Local Government as Corporation Engineer from 1980 till 2007, when he proceeded on ex-India leave, which was duly sanctioned for the period applied for. The petitioner overstayed the leave and submitted an application to the Commissioner, Municipal Corporation, Jalandhar from Canada for extension of ex-India leave from 25.09.2007 to 18.02.2009. However, no order was passed thereon, as found by the Inquiry Officer, who went into the conduct of the petitioner on an inquiry being entrusted to him. The petitioner was charge-sheeted for absence without leave, a month before he retired. The inquiry proceedings have resulted in establishing guilt of absence from duty without leave for a considerable period of time. The petitioner superannuated on 31.03.2011. The inquiry report is dated 26.04.2012 wherein the charge is proven. The inquiry report was considered by the disciplinary authority and a cut of 25% on the pension

was imposed on the petitioner by considering his service period till 25.09.2007. The period till the petitioner would have superannuated in the normal circumstances has been blacked out, which represents a period of about 3½ years. Aggrieved by the punishment order, the petitioner filed a review application, which was dismissed on 09.02.2015. The statutory appeal against the punishment order was partially accepted and the punishment was modified from 25% cut in pension to 20% vide order dated 11.02.2016. The petitioner is before this Court questioning the inquiry proceedings and imposition of 20% cut in pension and for ignoring the period of service from 25.09.2007 till he normally would have retired.

Having heard Mr. Bedi, learned counsel for the petitioner, I am unable to appreciate his argument that there should either be a further cut in pension or nullification of the order inflicting punishment since any order of that kind would result in the petitioner going scot free from his misconduct. The petitioner was under bounden duty as a municipal employee to have reported back to work at the end of the sanctioned leave. That duty he breached and instead made an application for extension of leave from 25.09.2007 to 18.02.2009 without furnishing adequate justification and sufficient proof of reasons for residing in Canada. As a matter of fact, the period beyond 25.09.2007 till 2011 should normally have been taken as an abandonment of service.

The only question left to answer is to the effect of non-passing of an order on the application for extension of leave. If it was a statutory duty of the Commissioner, Municipal Corporation, Jalandhar, then there might be something to say. However, there was no statutory duty upon him to inevitably grant extension then I am afraid the argument is misplaced and does not hold good in the facts and circumstances that the order should be faulted only for the

reason that no orders were passed on the application. This is for the reason that the petitioner cannot take advantage of his own wrong and also for the reason that principles of natural justice cannot be stretched beyond breaking point.

In view thereof, I find no reason to interfere in the findings of fact recorded in the inquiry and the quantum of punishment imposed. Consequently, the present petition is hereby dismissed.

13.05.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE