

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

RSA No.1963 of 1990

Date of Decision: 31.1.2017

Daulat Singh

...Appellant

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Arvind Seth, Advocate for the appellant

Mr.Anil Sharma, Addl.A.G., Punjab

RAJIV NARAIN RAINA, J. (Oral)

The services of the appellant were terminated on 12th December, 1977 after he had remained absent for six months, without prior intimation or getting his leave sanctioned. Before he proceeded on unauthorized absence, he had applied for and was granted leave from 1st May, 1977 to 31st May, 1977. Thereafter he has appeared. The appellant was driver in Punjab Roadways. This appeal has been filed by the appellant against concurrent findings of fact recorded by both the courts below dismissing his suit. It has been argued that the appellant was a regular employee and an enquiry should have preceded the termination. Admittedly, a departmental enquiry was not held. The question is, was it necessary? Unauthorized absence of six months leads to a reasonable inference of abandonment of service when the employer is not expected to chase an employee and welcome him back in service. If I apply the law in Vijay S. Sathaye Vs. Indian Airlines Ltd. And Others (2013) 10 SCC 253, the petitioner has no case on merits. In *Vijay S.Sathye*, the Supreme Court has held that once a person does not report for duty for a long time and does not join his duty accordingly, then the initial stage of absence from duty may be

misconduct but when the absence is for a long period then it amounts to voluntary abandonment of service resulting in automatic termination of service without legally requiring any further order from the employer. This is a case where a reasonable inference can be drawn that the appellant was not interested in his duty or his job. Besides, the suit was filed on 13th June, 1986 challenging the termination which took place on 12th December, 1977. The suit was barred by time. Even if the termination order is held to be illegal and void, even then limitation would run out after three years of the cause of action. Although right might remain, but the remedy would get extinguished by applying the law in State of Punjab and others vs. Gurdev Singh, (1991) 4 SCC 1. Even on point of limitation, this appeal has to be dismissed.

As a result of the foregoing discussion, this appeal is dismissed.

31.1.2017
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No