

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 111

Civil Writ Petition No.18153 of 2017 (O & M)
Date of Decision: *September 18, 2017*

Gursewak Singh @ Sweak Singh

..... PETITIONER

VERSUS

State of Punjab & others

..... RESPONDENTS

...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

...

PRESENT: - Mr. J.P.S. Sidhu, Advocate, for the petitioner.

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Jaspal Singh, J

Through the instant petition preferred under Article 226/227 of the Constitution of India, petitioner has sought a in the nature Mandamus, directing the respondents – authorities to consider and grant him retiral benefits including gratuity, pension and other emoluments on account of services rendered to Education Department, Punjab, from September 15, 1965 till September 04, 2001 by rendering more than 36 years' service and he is protected under Articles 19(1)(f); 31(1) & 300-A of the Constitution of India. Further prayer is for issuance of a writ in the nature of Certiorari, quashing order dated September 04, 2001 (Annexure P-2), vide which, services of petitioner have been terminated without affording any opportunity of hearing, especially when he was confined in jail.

Learned counsel for the petitioner has contended that petitioner was appointed as JBT teacher on adhoc/ temporary basis on September 15, 1965 and was posted at Government High School, Sardoolgarh. He was re-employed time and again vide various orders till he was appointed on permanent basis vide order dated October 07, 1970. There was no complaint against the petitioner in his entire service. However, he was implicated in case FIR No.49 dated April 18, 1999, under Section 302 IPC, Police Station, Sardoolgarh, on account of some family dispute and was convicted by the court of Additional Sessions Judge, Mansa, vide judgment dated August 31, 2000. On account of his conviction/ award of sentence and during pendency of statutory appeal before this Court, he was terminated from service vide order dated September 04, 2001, without affording any opportunity of hearing.

Learned counsel has further contended that impugned order of termination is not sustainable in the eyes of law which has been passed in violation of principles of natural justice as petitioner was not heard. As such, impugned order is liable to be set aside and petitioner is entitled to receive retiral benefits such as gratuity and other emoluments as he has served the Government for 36 years.

This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the petitioner but find no legal substance in the same.

In the case in hand, petitioner served the Education Department, Punjab since September 15, 1965 till September 04, 2001. He stood convicted for an offence under Section 302 IPC vide judgment dated August 31, 2000. He preferred an appeal viz. Criminal Appeal No.445-DB

judgment dated April 16, 2009 (Annexure P-3) passed by this Court. Pursuant to conviction of petitioner by the trial court, his services were terminated vide impugned order dated September 14, 2001 (Annexure P-1) which has now been challenged by him in the month August 2017 i.e. after almost 16 years through the instant writ petition as well as claiming relief of retiral benefits such as gratuity etc. There is no plausible reason as to why he did not prefer any such petition seeking writ of certiorari of challenging impugned order or mandamus, earlier. There is an inordinate delay in filing the petition. Thus, petitioner is guilty of long delay and laches which is suggestive of the fact that he is deemed to have acquiesced or waived off his claim or right. Such a relief cannot be claimed ignoring the long and unexplained delay. Though, petitioner preferred an appeal challenging his conviction, which was decided on April 16, 2009, even almost more than 8 years have passed since his conviction was upheld by this Court.

The delay disentitles a party to discretionary relief under Article 226 or Article 32 of the Constitution. This Court in CWP No.5308 of 2018 titled 'Rattan Singh Bajwa vs. State of Punjab & others', decided on March 06, 2018, while relying upon various judgments of Hon'ble Apex Court has held that increasing tendency to perceive delay as a non-serious matter and apathetic tendency can be exhibited in a nonchalant manner has to be curbed.

In view of what has been discussed above, there is no merit in the instant petition and same is dismissed with no order as to costs.

(Jaspal Singh)
Judge

September 18, 2017
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No