

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

Date of decision:11.01.2017

Joga Singh

.....Petitioner

VS

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.NK Vadhera,Advocate for the petitioner.

Jaswant Singh,J(Oral)

Petitioner by filing this writ petition has laid challenge to the order dated 16.11.2005 (P-5) vide which he was dismissed from service. Further challenge is to the order dated 25.4.2008 (P-7) whereby his application seeking voluntary retirement was also dismissed.

Petitioner joined as Clerk in the Excise and Taxation Department w.e.f. 15.1.1974. During his posting at Phagwara he sought Ex-India leave from 3.3.1997 to 2.8.1997(150 days) to visit his relatives in USA. It is averred that in fact petitioner had gone to USA for treatment of his daughter-Rajwant Kaur who was suffering from seizures. On 26.8.1997 petitioner sought extension of leave from 3.8.1997 to 31.8.1997 and thereafter, through various applications, he kept on seeking extension of leave. Last such extension was sought from 1.1.2001 to 31.12.2001. It is case of the petitioner that none of his extensions were replied by the respondent-Department. It is further averred that vide application dated 4.12.2004 (P-4) petitioner sought voluntary retirement due to medical condition of his daughter, but no action was taken on the said request and

on 3.12.2005 the petitioner received order dated 16.11.2005 (P-5) whereby he was dismissed from service. Aggrieved by this, petitioner filed a review petition dated 7.3.2007(P-6) before learned Financial Commissioner and Principal Secretary to Govt. of Punjab, Department of Excise and Taxation and in turn he was advised to move review petition before Deputy Excise and Taxation Commissioner, Jalandhar. Petitioner moved a representation accordingly but the same was dismissed by Deputy Excise and Taxation Commissioner, Jalandhar vide order dated 25.4.2008(P-7). Thereafter, petitioner filed a Demand Notice under the Industrial Disputes Act, 1947 before the Industrial Tribunal but the said demand notice was withdrawn by him on 20.4.2016. It is claimed that thereafter, petitioner made various representation to respondents to consider his case for voluntary retirement which yielded no result. Hence the present petition.

A perusal of impugned order dated 16.11.2005 (P-5) reveals that petitioner was charge sheeted under Rule 8 of Punjab Civil Services (Punishment and Appeal) Rules, 1970. Petitioner did not reply to the charge sheet whereafter a Departmental Enquiry was ordered against him. The petitioner chose to stay away from the Departmental Enquiry. In the Departmental Enquiry it was held that petitioner remained absent intentionally. The punishing authority after perusing the report of the Enquiry Officer, issued a notice dated 23.9.2005 for personal hearing to the petitioner, but neither the said notice was received back unserved nor it appears that petitioner appeared to represent his case before the Punishing Authority. It is in these circumstances that the punishment order dated 16.11.2005(P-5) came to be passed whereby petitioner was dismissed from service. The Appellate authority agreeing with the Punishing Authority

dismissed the review petition of the petitioner vide order dated 25.4.2008(P-7) holding that petitioner had remained absent for more than 5 years.

It is apparent that challenge to the impugned orders at this belated stage suffers from delay and laches, apart from no substantial basis to challenge on merits; actually also amounting to abandonment of services by an employee, who no longer remains an Indian citizen.

After arguing the matter at length, having failed to convince the Court on merits and to avoid imposition of compensatory costs, learned counsel for the petitioner seeks permission to withdraw the present petition.

Dismissed as withdrawn.

11.01.2017

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(Jaswant Singh)
Judge

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