

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

208

**CM No.7344-C of 2014 in/and
RSA No.3101 of 2014 (O&M)
Date of Decision : 19.12.2017**

Sohan Lal

..... Appellant

Versus

Punjab State through Collector, Gurdaspur
and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. A.D.S.Bal, Advocate
for the appellant.

Mr. H.S.Sitta, Asstt. Advocate General, Punjab
for the respondents.

AJAY TEWARI, J. (Oral)

CM No.7344-C of 2014

For the reasons recorded, the application is allowed. Delay of 57 days in re-filing the appeal is condoned.

RSA No.3101 of 2014

This appeal has been filed against the judgment of the lower Appellate Court dismissing a suit filed by the appellant.

The case of the appellant was that he had proceeded on medical leave (having suffered an attack of Hepatitis) in December 1984 and he joined back on 08.06.1985. Thereafter the vacations ensued, he enjoyed the vacations, joined back after then and continued to work for a period of 5

more years, but for that entire period, he was not given any salary nor were

his increments etc. granted to him and even after his date of retirement in 1990 his retiral dues were not paid to him.

The stand of the respondents on the other hand was that actually the appellant had abandoned his duty in December, 1984 due to fear of terrorism. He joined back for a brief period in 1990 before he attained the age of super-annuation. The Government had further taken a lenient view of his absence and had not initiated any disciplinary action against him in view of the prevailing atmosphere of the State. Ultimately that period of absence was treated as *dies-non* and his benefits were released to him. What made the lower Appellate Court disbelieve the version of the appellant was two facts; firstly in the plaint the appellant had averred that his leave application was sanctioned by letter No.84 dated 14.05.1985. That letter was on the record and it depicts a completely different picture than the one being shown by the appellant. By that letter he was informed that he had merely sent a medical certificate from some Registered Medical Practitioner without any leave application and he was advised to join his new place of posting. Further he had himself filed CWP No.2687 of 2005 in this Court copy of which was placed on record as Exhibit P-21 by the appellant himself. In that petition also it was the averment of the appellant that when he tried to join back on 08.06.1985 he was not allowed to join back on the ground that he had been transferred elsewhere. On these grounds the lower Appellate Court did not accept the stand of the appellant that he had infact joined back and had continued to work for all those five years.

Learned counsel for the appellant has not been able to show me

Appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

19.12.2017
pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No