

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-8815-2016
Date of decision: 26.09.2018

Ramesh Kumar

...Petitioner

V/s.

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Umesh Narang, Advocate for the petitioner.

Mr. Hitesh Pandit, Addl.A.G., Haryana.

RITU BAHRI, J. (Oral).

The petitioner is seeking quashing of the order dated 29.10.2013 (Annexure P-9) whereby period from 27.07.2010 to 18.01.2011 has been treated as leave of kind due. As per the enquiry report dated 25.01.2012 (Annexure P-7), the allegations against the petitioner Science Master were not proved. A perusal of enquiry report (Annexure P-7) shows that the petitioner was charge-sheeted as he had been transferred from GHS Siddipur (Jhajjar) to GHS Rambass (Mohindergarh) and he did not report for duty till 18.01.2011. After his transfer, he was relieved from duty on 26.07.2010, he did not join at GHS Rambass (Mohindergarh). There was no loss caused to the students during this period as he was working as Guest Teacher after 18.01.2011 and from the cross-examination of Mahabir Prasad Sharma, Head Master GHS Rambass (Mohindergarh) as PW-3, there was 100% good result in his subject and he was the best teacher out of 10 teachers working in that school. Enquiry report (Annexure P-7) was

accepted by the Additional Director, Administration vide order dated 29.10.2013 (Annexure P-9) and the charge-sheet was cancelled. However, the period from 27.07.2010 to 18.01.2011 was treated as leave of the kind due. The grievance of the petitioner is that this period may not be treated as leave of kind due on the following grounds:

- (1) The petitioner after his transfer was relieved on 26.07.2010 but he was not allowed to join as Guest Teacher as one Mr. Mukesh Kumar was already working as Science Master in GHS Rambass (Mohindergarh). The certificate issued by Head Master, GHS Rambass (Mohindergarh) has been issued to this effect (Annexure P-3).
- (2) He then approached District Education Officer, Narnaul to allow him to join duty as Guest Teacher vide letter dated 27.07.2010 (Annexure P-4). He kept on waiting but did not receive any reply from District Education Officer.
- (3) He made another request again on 03.08.2010 to District Education Officer, Narnaul to allow him to join as Guest Teacher in GHS Rambass Mohindergarh (Annexure P-5). Finally, he was allowed to join as Science Master on 19.01.2011 as per joining report (Annexure P-6).

The stand taken by the respondents is that the period from 27.07.2010 to 18.01.2011 has been treated as leave of the kind due pursuant to the order dated 29.10.2013 (Annexure P-9), the petitioner has 176 days sanctioned earned leaves for the period of 27.07.2010 to 18.01.2011 and the salary for the said period amounting to Rs.2,05,065/- has been credited in his account on 22.02.2014. The petitioner had a

remedy to challenge the impugned order (Annexure P-9) before the 1st Appellate Authority and he has not availed the opportunity to file appeal and the petition is liable to be dismissed on this ground itself.

After hearing learned counsel for the parties and going through the contents of the writ petition and written statement, the first question to be considered is whether the petitioner had a remedy to file appeal against the impugned order dated 29.10.2013 (Annexure P-9) passed by the Additional Director, Administration.

The petitioner is working as Science Master and as per the Haryana School Education Group C State Services Cadre 2012 in Appendix D for the post of TGT Science, the appropriate authority to make an order of punishment is the Additional Director, the 1st Appellate Authority is Director and the final authority is Government. As per the above said rules, the petitioner had a remedy to file appeal against the order dated 29.10.2013 (Annexure P-9) before the Director which he had not done and thereafter he had an opportunity to file appeal before the Government as well. The impugned order was passed way back on 29.10.2013 and he has chosen to file writ petition on 04.05.2016 after a gap of 3 years. There is no explanation for this delay and he cannot be relegated to file appeal before the Director as well. The writ petition is dismissed on the ground of delay and laches.

(RITU BAHRI)
JUDGE

26.09.2018

Divyanshi

Whether speaking/reasoned
Whether reportable

:
:

Yes/No
Yes/No