

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

CWP No. 32080 of 2018

Date of Decision: 15.12.2018

Ritu Raj Kaur

...Petitioner

Vs.

State of Punjab and others

...Respondents

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

Present: Ms. Riti Aggarwal, Advocate
for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

1. The petitioner was last seen on duty in the Department on 05.10.2009. She was a Social Studies Mistress serving in Government Senior Secondary School, Jodhpur Parkhar, District Bathinda. She did not turn up for years thereafter in the school where she taught. She left behind no information of her whereabouts or where she could be contacted. The Department had to put a public notice on its expense in the Hindustan Times newspaper asking her to come forward and present her case failing which her services will be terminated on the ground of abandonment of service. She did not respond to the notice. The Secretary, School Education Punjab left with no option passed the order dated 05.02.2013 terminating her services for abandoning her job without unauthorized leave of absence; not willing to perform government job, causing loss of studies of students studying in the school and the negative impact which this had on an educational

institution. The Secretary rightly classified the case as one of abandonment and applied the law in the Supreme Court judgment in Shahoodul Haque v. The Registrar, Co-operative Societies, Bihar & Anr., AIR 1974 SC 1896. The passage from the judgment is quoted in the order that in such a case long unauthorized absence may reasonably give rise to and inference that such service is intended to be abandoned by the employee, being a case of abandonment of service, no notice/enquiry is required.

2. To this, I can only add the more recent decision of the Supreme Court in Vijay K. Sathaye Vs. Indian Airlines Limited and others, (2013) 10 SCC 253. That absence is a mis-conduct in the beginning, if it is for a short period but if it is indefinite and spread over a long period of time, in this case for four years, and without prior notice to employer then the inference drawn by the Secretary cannot be faulted. It is a perfectly justified order.

3. In these circumstances, the petitioner would have lost her right to pension and pensionary benefits. The order amounts to dismissal, call it termination. Besides, this petition has been filed after a period of 5 ½ years of the order of termination which is inordinately long. In these circumstances no sympathy can be shown to the petitioner nor is there any scope to exercise the equitable discretionary jurisdiction vested in this Court under Article 226 of the Constitution of India. Even a suit to undo the termination order passed in 2013 the cause of action

would be barred by limitation. Where a suit is barred, it would be prudent for the writ Court not to interfere in its writ jurisdiction.

4. With the above observations, the petition is dismissed in *limine*.

(RAJIV NARAIN RAINA)
JUDGE

15.12.2018
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Whether speaking/reasoned : Yes
Whether reportable : No