

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 12.04.2019****CWP No.9914 of 2019**

Pawanjit Kumar

...Petitioner

Vs.

Punjab & Haryana High Court & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sourabh Arora, Advocate, for the petitioner.

RAJIV NARAIN RAINA, J. (ORAL)

The petitioner was an employee in the District Courts at Amritsar while working as a Stenographer Grade-I after 25 years service tendered his resignation on his own volition. The resignation was accepted by the District & Sessions Judge. He turned pensioner. After about 4 years, his mind changed and he moved an application requesting that he may be allowed to withdraw his resignation citing mental ill-health and family circumstances, which had compelled him to quit office. The application was declined by the District & Sessions Judge, Amritsar vide letter dated 17.07.2018. Thereafter, the petitioner preferred a service appeal under Rule 14 of the Punjab Subordinate Courts Establishment (Recruitment and General Conditions of Service) Rules, 1997 which was heard by the appellate authority. The appeal has been held to be not maintainable by the learned Administrative Judge of the Amritsar Sessions Division by order dated 30.11.2018 as an appeal does not lie.

It is true that service appeal is not maintainable, but it cannot be said that a writ petition does not lie in the subject matter, but I find

hardly any ground to interfere in exercise of that jurisdiction in what appears to be a mercy petition. Passage of 4 years of time and earning pension through these years indicates itself to be a sufficient circumstance to non-suit the petitioner and refuse writ applied for. This is notwithstanding abject lack of reliable medical evidence in the papers placed on file to prove mental disability of a kind which may have impaired sanity, reason and judgment of what may be good or bad for oneself. And that too, to a degree of being non compos mentis to justify acceptance of the prayer for reinstatement to service on the ground that the mental disorder has now been cured and the petitioner is fit to rejoin duties on mere production of a fitness certificate issued by a medical doctor without trail of previous history establishing the extent of mental ill-health and unsound mind or the shelter of attending family circumstances which prevented rational thinking. It is, thus, not possible to accept this bald contention. There is no error in the order of the learned Administrative Judge.

Accordingly, I find no reasonable ground to entertain this petition in exercise of jurisdiction under Article 226 of the Constitution and would dismiss it without deeming it fit to issue notice to the other side.

12.04.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>