

Sr. No. 213

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

CWP No.11227 of 2015 (O&M)

Date of Decision: 08.02.2019

Vijay Kumar

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Prateek Pandit, Advocate,
for the petitioner.

Mr. Abhaypal Singh Gill, AAG, Punjab.

Mr. Anupam Singla, Advocate,
for respondents No.2 and 3.

ARUN MONGA, J.(ORAL)

The present writ petition has been filed seeking issuance of a writ in the nature of certiorari to quash the order dated 25.10.2013 (Annexure P-7) whereby the services of the petitioner have been terminated.

2. Learned counsel for the respondents-PRTC at the outset points out that the present writ petition is not maintainable as the impugned order is appealable under Regulation 30 of PRTC (Conditions of Appointment and Service Regulation) 1981, as amended.

3. Per contra, learned counsel for the petitioner states that the impugned order has been passed pursuant to an inquiry report dated 19.09.2013 (Annexure P-3). He states that in an earlier round

of litigation also, an inquiry was held and the report thereof was in favour of the petitioner. However, the Punishing Authority did not accept the findings of the Inquiry Officer and his services were terminated which ultimately led to filing of a Civil Suit as also Regular First Appeal by the petitioner. The said Civil Suit was dismissed. First Appellate Court reversed the order of the trial Court and remanded the case for fresh inquiry without going into the merits of the inquiry report.

4. Learned counsel for the petitioner states that said order of Learned District Judge, though was partly in his favour, however, petitioner challenged the same before this Court by way of Service Appellate Order (SAO) No. 57 of 2013 qua the direction for fresh inquiry. The SAO was later withdrawn on 22.04.2014 so as to challenge the impugned order dated 25.10.2013 passed during pendency of SAO.

5. Learned counsel for the petitioner states after withdrawing of the said SAO, the petitioner consulted his lawyer and was advised to file the present writ petition and has been pursuing the remedy ever since.

6. I am in agreement with the preliminary objection taken by the learned counsel for the respondents and, therefore, hold that the present writ petition is not maintainable as the alternative remedy of appeal under Regulation 30, *ibid*, has not been availed. Without going into the rival contentions on merits, I direct the Appellate Authority to decide the appeal in accordance with law.

The learned counsel for the petitioner states that he would file the

appeal within a period of 30 days from today. Let the appeal be disposed of within a period of 06 months after the same is filed. It is made clear that period of litigation before this Court shall not be counted for the purpose of limitation, including the time taken to file the present writ petition, after withdrawing the SAO.

7. The present writ petition is, accordingly, disposed of.

08.02.2019

vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No