

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

**CWP NO. 22162 of 2014
DATE OF DECISION : 26.09.2019**

Hatinder Pal Singh

...Petitioner

versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Vivek Goel, Advocate,
for the petitioner.

Mr. Mehardeep Singh, Addl. AG, Punjab.

Mr. Gaurav Jindal, Advocate,
for respondents No.4 and 5.

ARUN MONGA, J. (ORAL)

Impugned herein, *inter-alia*, is Resolution No.61 dated 17.02.2010 (Annexure P-6) and Resolution No.73 dated 27.09.2010 (Annexure P-7) passed by Municipal Council, Kot Fatta and the subsequent order dated 28.10.2011 (Annexure P-9), whereby petitioner was dismissed from service for the reasons stated therein.

2. Without dwelling deep into the merits of the case, as well as the factual matrix which is not disputed, I am of the opinion that present writ petition is barred by the principles of constructive resjudicata. The petitioner earlier filed a writ petition bearing No.1502 of 2013 wherein he had sought a mandamus to

allow him to join the service pursuant to a letter/ order dated 11.05.2012 allegedly issued by the Executive Officer of respondent -Municipal Council asking him to join the service in supersession of earlier resolution vide which he was dismissed from service. At the time of filing the earlier writ petition, it was open to the petitioner to impugn the resolutions vide which he was dismissed from service but he had chosen not to do so in view of the letter issued by the Executive Officer asking him to join the service. Be that as it may, the said writ petition was dismissed in view of the stand taken by the Municipal council that the letter purportedly written by the Executive Officer was in fact a forged letter and therefore, the petitioner could not have sought a writ for mandamus. While disposing of the writ petition, following direction was given by this Court :

“ Regarding the factum whether the letter dated 11.05.2012 whereby, the Executive Officer allowed the petitioner to join duty and consequent letter dated 17.05.2012 whereby, allegedly some leave was granted since there are disputed questions, it is directed that the Director, Local Bodies shall call for the record and look into the said issue. If it is found that there has been forgery, necessary action be taken by prosecuting the person responsible.”

3. In the return filed by Municipal Council, following stand has been taken with respect to forgery of the said letter :

“ The Municipal Council Kot Fatta also vide letter No.75 dated 23.02.2012 wrote to the SHO Police

Station Kot-Fatta for registration of a criminal case against petitioner. A copy of the letter dated 23.02.2012 issued by the Municipal Council is attached as Annexure R-4/6 with the written statement."

4. Having heard learned counsel for the parties and after perusal of the records, I am of the view that argument of learned counsel for the petitioner that he is entitled to be reinstated in terms of letter dated 11.05.2012 is not sustainable in view of the stand taken by the Municipal Council recommending registration of criminal case qua the said letter being forged. Under extraordinary writ jurisdiction vested under Article 226 of the Constitution of India, it is not possible for this Court to go into the veracity of the version of forgery of the letter otherwise, unless the same is gone into by way of appropriate proceedings by appreciating/adducing of evidence in support of claim of forgery by the Municipal Council. The writ petition is accordingly dismissed with liberty to the petitioner as well as to the Municipal Council to institute appropriate proceedings to establish the authenticity/veracity of letter relied upon by learned counsel for the petitioner.

(ARUN MONGA)
JUDGE

SEPTEMBER 26, 2019
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Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No