

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 23.10.2019****CWP No.25517 of 2019**

Vikas

...Petitioner

Vs.

The Registrar General, Punjab & Haryana High Court, Chandigarh &
another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINAPresent: Mr. Inderjit Sharma, Advocate,
for the petitioner.**RAJIV NARAIN RAINA, J. (ORAL)**

1. The petitioner was appointed as Clerk -cum- Typist in the District Courts at Gurdaspur by order of learned District & Sessions Judge, Gurdaspur dated 03.08.2011. Clause 6 of the terms of order of appointment prescribes that he would remain on probation for a period of two years and on completion of his probation period, his appointment will be regularized. The following Clause 7 maintained that his services will be on purely temporary basis, liable to be terminated at any time without any notice or assigning any reason. He joined services on 08.08.2011. However, while posted as Destruction Clerk, Judicial Record Room, Gurdaspur, his services were dispensed with being no longer required, with effect from the date of the order dated 23.12.2013. He had by then put in about 04 months of

service beyond the completion of two years prescribed in Clause 6, referred to above.

2. It is argued on behalf of the petitioner that by virtue of Clause 6, the petitioner had a right to regularization on mere completion of probation period and, therefore, the order is in excess of jurisdiction.

3. I have heard learned counsel for the petitioner on the point, but fail to appreciate it. It is inherent in Clause 6 that service during the period of probation must be satisfactory. The order of termination on the face of it is simplicitor and the only reason assigned is that the services are no longer required. No stigma is attached in such an order, which may cast a shadow on his future career.

4. Be that as it may, against the order of termination, the petitioner preferred a service appeal to the Hon'ble Inspecting Judge of Gurdaspur Sessions Division. The appeal was dismissed on the ground that when the impugned order was passed, the appointment was still on probation. Hence, his services could be dispensed with if they were no longer required. The appeal was dismissed on 27.03.2014. The orders in service appeal have attained finality. An order of confirmation of probation had not been passed in the life of the service.

5. Against the order in appeal, the petitioner instead of challenging the same in the High Court on the judicial side made an application/representation dated 30.06.2018 to Hon'ble the Chief Justice to intervene in the matter. An order was communicated to the petitioner by the Registrar General on 12.09.2018 referring to the decision of Hon'ble the Chief Justice indicating that the petitioner is free *"To take remedy as may be available in law"*.

6. Learned counsel submits that the present petition is the remedy available to the petitioner in law. I do not agree with him. The petitioner has extinguished his remedies by passage of time against an impugned order passed on 23.12.2013 with the statutory service appeal dismissed on 27.03.2014. By the time, he preferred his first application/representation to Hon'ble the Chief Justice on 30.06.2018, his limitation against the impugned orders had run out and the ratio of the judgment of the Supreme Court in State of Punjab & others Vs. Gurdev Singh & Ashok Kumar, AIR 1992 SC 111, applies against the termination order, which must be questioned at least within the period prescribed for bringing a suit in a civil court. If the period of limitation for filing a suit expires, then it would ordinarily be prudent for the writ court not to interfere in the discretionary writ jurisdiction and dismiss the petition at the threshold. For this proposition *see*: State of Madhya Pradesh Vs. Bhailal Bhai & others, AIR 1964 SC 1006: 1964 SCR (6) 261. Moreover, the issue can be examined also from the stand point of the directions of the Supreme Court in State of U.P. & others Vs. Arvind Kumar Srivastava & others, (2015) 1 SCC 347. Delay is apparent and laches remain unexplained as to what held back the petitioner for so long sleeping over his perceived rights and he will be deemed to have waived his rights and acquiesced in a state of things.

7. Consequently, the present writ petition is dismissed in limine on merit as well as on the ground of delay and laches and the bar of limitation.

23.10.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No