

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 6622 of 2021

Date of Decision: March 24, 2021

Ramphal

..... Appellants(s)

Versus

State of Haryana and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Naveen Kashyap, Advocate
for the petitioner.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Brief facts as delineated in the present petition are that petitioner was appointed on the post of Vaccinator on *ad hoc* basis in the Animal Husbandry and Dairying Department, Haryana on 25.02.1991. Petitioner's services were regularised on 26.06.1993. Petitioner was convicted for the offence punishable under Sections 366, 342, 506, 376(2)(g) IPC. He was subsequently acquitted vide decision dated 24.01.2007 in CrI. Appeal No.89-SB of 2004. It is stated that petitioner approached the Department for continuation of his service, however, it is not denied that termination order dated 21.11.2003 was not set aside.

Petitioner was, however, offered a job of Clerk in the same Department, which was accepted by the petitioner on 04.03.2009. At that time petitioner submitted an undertaking to the Department that he would not claim any benefit qua the post of Vaccinator, which he was holding earlier. Petitioner sought voluntarily retirement, the exact date of which is

not mentioned in the writ petition and neither was the same set forth during arguments. The petitioner has since been allowed to retire.

Present writ petition has been filed by the petitioner seeking a direction to the respondents to treat the suspension period from 23.03.2000 till 21.11.2003 i.e. the date of his termination from the post of Vaccinator, for considering the same as duty period and for grant of all benefits to petitioner besides protection of petitioner's pay as a Vaccinator and consequential grant of the same pay scale a Vaccinator notwithstanding his fresh appointment as Clerk.

Learned counsel for the petitioner has referred to a representation (Annexure P-3) purportedly submitted to the Director, Animal Husbandry and Dairying Department, Haryana, regarding benefits of past service. Petitioner, it is submitted was in dire requirement of employment and that is why he had accepted the appointment as a Clerk at a much lower pay scale in 2009. Petitioner is entitled to the benefits of his service as Vaccinator and the respondent authorities are illegally not considering his request as well as legal notice dated 29.06.2020 (Annexure P-4) submitted by him. It is thus prayed that this petition be allowed.

I have heard learned counsel for the petitioner and have gone through the file with his able assistance.

I do not find any ground whatsoever to interfere in this writ petition for issuance of a direction to the respondents to treat the period of suspension of the petitioner as a Vaccinator from 23.03.2000 till termination of his service on 21.11.2003 from the post of Vaccinator. This is so for the reason that admittedly termination order dated 21.11.2003, (from the post of Vaccinator), still holds good and was never set aside. Petitioner's

appointment to the post of Clerk was a fresh appointment and on a specific undertaking by him in the year 2009 that he would not claim any benefits for the post of Vaccinator. Reference to representation (Annexure P-3) is of no avail to petitioner. Firstly this representation is undated and neither is there any pleading regarding the mode of submission of such application. Furthermore, it is not denied by learned counsel for the petitioner that since 2009 till 2020 there is nothing on record to show that petitioner had ever made any prayer for withdrawal of the undertaking that he had submitted in the year 2009, at the time of his appointment as a Clerk. Contention that such undertaking was given in 2009 as the petitioner was in need of employment and that the same be not held against him and he should thus be permitted to withdraw the same now, is untenable, hence rejected.

Judgment of *Satish Kumar Vs. State of Haryana and others, (2016) 2 LLJ 700* relied upon by learned counsel for the petitioner is not relevant in the facts and circumstances of the present case as it admittedly does not deal with a case where an employee's services had been terminated on account of his conviction and he was given fresh appointment with a clear undertaking that he would not claim any benefits of the previous post and thereafter, the benefit as sought was afforded. Thus, I do not find any ground whatsoever to interfere in this writ petition.

No other argument has been addressed.

Petition is accordingly dismissed with no order as to cost.

March 24, 2021

'Sunil'

**(LISA GILL)
JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No