

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

**CWP-22021-2020(O&M)
Date of Decision:26.02.2021**

Jatinder Kumar

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Dilpreet Singh Gandhi, Advocate for the petitioner.

Mr. Abhay Pal Singh Gill, AAG, Punjab.

TEJINDER SINGH DHINDSA, J. (ORAL)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

As per pleadings on record petitioner was appointed as a Clerk under the Punjab State Education Department in the year 1993. He was served with a charge-sheet dated 04.10.2012 (Annexure P-5) with an article of charge that he has remained unauthorisedly absent from duty w.e.f. 01.03.2011.

Instant writ petition has been filed seeking a mandamus directing the respondents to permit him to join duty.

Instant petition had come up for preliminary hearing before this Court on 23.02.2021 and the contention raised by counsel was recorded that petitioner has not been served with any order of suspension/termination and

under such circumstances he cannot be kept away from his seat of employment.

On the previous date of hearing learned State counsel had been requested to complete instructions.

During the course of resumed hearing today, Mr. Abhay Pal Singh Gill, learned AAG, Punjab informs the Court that after issuance of the charge-sheet dated 04.10.2012, repeated opportunities had been granted to the petitioner and to which he did not respond. Thereafter even a public notice was issued on 17.10.2017. However, further action stands stalled as the file itself has gone missing and for which a separate enquiry is contemplated.

Learned State counsel submits that in any event insofar as the petitioner is concerned, the departmental proceedings initiated vide charge-sheet dated 04.10.2012 (Annexure P-5) would now be resumed and would be taken to a logical end and would culminate positively within a period of three months from today.

Statement is accepted.

At this stage Mr. Dilpreet Singh Gandhi, learned counsel for the petitioner submits that such course of action would be arbitrary and unfair. He submits that without any fault of the petitioner he has not been permitted to join duty and as such the employer ought not to be given the liberty to proceed further.

Such submission is ill founded. It is the pleaded case of the petitioner himself that a charge-sheet had been duly served in the year 2012.

The charge was of having remained absent without due authorisation. There

is no material/documents on record to substantiate the stand of the petitioner that he had made repeated attempts to join back on duty. Even if there had been laxity on the part of the employer in having kept the proceedings pending pursuant to the charge-sheet issued in the year 2012, even the petitioner has chosen to sit back and for all these years commencing from 2012. Till the date of filing of the instant petition he chose not to avail of any remedy. This Court would not make any further observation as regards conduct of the petitioner lest it may prejudice him in the enquiry that is yet to be finalised.

No further directions are required to be passed.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

26.02. 2021
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No