

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

CWP-4657-2021

Reserved on : 06.12.2022

Pronounced on : 13.12.2022

Akshay Yadav

.....Petitioner

Versus

Central Administrative Tribunal & others

.....Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr.P.S.Khurana, Advocate for the petitioner.

Ms.Puneeta Sethi, Sr.Panel Counsel, for respondent-UOI.

G.S. Sandhawalia, J.

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India, is to the order passed by the Central Administrative Tribunal dated 24.02.2020 (Annexure P-11) whereby OA No.060/00133/2020 was dismissed on the ground of limitation. Resultantly, the action of the respondents terminating the services of the writ petitioner on 28.12.2017 during his period of probation/extended probation, was upheld.

Mr.Khurana, learned counsel appearing for the writ petitioner has tried to take us to the merits of the case on the ground that the order is stigmatic and therefore, on that ground itself, the Tribunal was not justified to have dismissed the application and should have entertained the same on merits. He further submits that the termination order was served upon the petitioner at a belated stage on 20.06.2018 and it was on that account that

there was delay as such. It is also contended that on 03.07.2019

(Annexure P-10), reconsideration had been denied and therefore, the limitation should be counted from the said period. Counsel has further submitted that the child of the petitioner was suffering from ailment and on that account there was absence.

Ms.Sethi, learned counsel appearing for the Union of India on the other hand submits that the interference is not called for as the writ petitioner was absenting himself from duty without any prior information and he was absent for 633 days during his period of probation/extended probation and it was due to the unsatisfactory performance his services had been terminated. It is pointed out that the termination order was handed-over on 28.12.2017 but was never challenged. It is further pointed out that during the extended period of probation of one year, there was absence of 216 days. The factum that the termination order was not served has been denied. It is submitted that the application was rightly dismissed on the ground of limitation. It is further submitted that the impugned order of the Tribunal was passed on 24.02.2020 but the writ petition was only filed on 16.02.2021, almost a year later and therefore, there was delay at all stages.

We have perused the paperbook and are of the considered opinion that the reasoning given by the Tribunal is justified. Apparently, the petitioner was appointed as a Tradesman-Mate on 31.10.2014 and the probation period was of 2 years which was to be completed on 30.10.2016. During his period of probation, show cause notice was also issued on 10.03.2016 (Annexure P-1) that he was absent w.e.f. 02.01.2016 and he was directed to rejoin and explain in writing as to why disciplinary action should not be taken under the CCS Rules, 1965. Extension of probation period was granted on 23.11.2016 (Annexure P-2) for a period of one year

positive recommendation. On 08.06.2017 (Annexure P-3), it is apparent that his absence from duty from 17.04.2017 was seen and again he was asked to rejoin his duties and similar show cause notice was issued on 12.12.2017 (Annexure P-4) that he had failed to show improvement and why his services should not be terminated with immediate effect. Resultantly, the impugned order was passed on 28.12.2017 (Annexure P-6) by noting that his reply which was submitted on 23.12.2017 had been considered with empathy but his continuation in service was not in organizational interest as it was setting a bad precedence.

On 20.06.2018 (Annexure P-5) as per the application dated 13.06.2018, the termination order was also supplied to him and thereafter, he filed an application for reinstatement and reconsideration on 24.05.2019 (Annexure P-9) wherein he took the plea that he had a health problem. Apparently, he never challenged the order at that point of time and then sat back for the reconsideration which was done on 03.07.2019 (Annexure P-10) on the basis of which the argument is raised that the case was within limitation.

We are not convinced with the argument. Apparently, the order was supplied to him on 20.06.2018 and he chose not to follow it up and challenge it in accordance with law immediately and file a representation. Filing of representation after a period of almost one year would not extend the period of limitation as per Section 20(2) read with Section 21 of the Administrative Tribunal Act, 1985 and therefore, the argument raised that the matter should have been tried on merits is without any basis. It is on the lacking of the petitioner itself as he was not diligent enough to challenge the order within the prescribed time period and thus,

the Tribunal was justified in dismissing the Original Application at the

initial stage on account of delay by also noticing that no application for condonation of delay under the relevant rules was filed. Even the present writ petition has been filed after almost a year from the date of the order of the Tribunal having been filed only on 16.02.2021.

In such circumstances, keeping in view the cumulative background, we do not feel it to be a fit case to exercise our extraordinary writ jurisdiction. Accordingly, the present writ petition is dismissed.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

13.12.2022
sailesh

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