

Sr. No.649

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CWP-8794-2000 (O&M)
Date of decision: 23.05.2022

Dr. K.P.Singh

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the petitioner.

Mr. R.D.Sharma, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of mandamus directing the respondents to take the petitioner back into service with continuity along with consequential benefits.

2. Petition was admitted on 12.09.2001.

3. When called out for hearing, there is no representation on behalf of the petitioner. It seems that by sheer effluxion of time and pendency of the writ petition for more than 21 years before this Court, either it has been rendered infructuous or even otherwise the petitioner seems to have lost interest in pursuing the same.

4. In any case, it appears that even on merits, claim of the petitioner is not admissible in view of the following stand taken in para 4 and 10 of the reply, which are reproduced herein below for ready reference:-

“ 4. That in reply to para-4 of the writ petition, it is submitted that a complaint from Dr. (Mrs.) Renuka Nath, Medical Officer was received and the following charges were leveled by her against the petitioner:-

- i.) That on 18.09.92 at 10.00A.M. Dr. K.P.Singh petitioner misbehaved with her and used indecent language unbecoming of a Gazetted Officer.*
- ii.) On 19.09.92 Dr. K.P.Singh chased the complaint to her house, hit her with scooter and beat her with stick.*

iii.) On 19.02.92 at 5.00 PM in the duty room of complainant Dr. K.P.Singh misbehaved with her and by putting his belt around her neck and tried to shut the door of the room.

The preliminary enquiry was conducted by Dr. R.C.Aggarwal, SMO, ESI Hospital, Faridabad against the petitioner and the charges were proved. The petitioner was also associated in the preliminary enquiry. On this ground the petitioner was suspended by the Govt. vide letter No.6/78/92-4 HBI dated 18/22.2.93 copy of the suspension order was sent to the petitioner directly by the Respondent No.1. As per rule 7.4 of CSR Vol.I part I a Govt. employee who is placed under suspension, is not entitled for leave. The petitioner on receipt of the suspension order represented to the Hon'ble Health Minister, Haryana against his suspension order vide the letter dated 02.03.1993 (Annexure R-I). It is also further submitted that he concealed the facts and mislead the then Commissioner and Secretary Health during his tour to Faridabad, for getting permission to join duty vide letter dated 06.07.93 (Annexure P-1) whereas the petitioner was aware of his suspension. However the contents regarding illness of the petitioner are vehemently denied, till date the petitioner never submitted any proof of his illness in the department.

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10. That para 10 of the writ petition is admitted to the extent that Dr.R.S.Garg, Civil Surgeon, Bhiwani was appointed as Enquiry Officer. He fixed the enquiry on 11.03.1997 to find out the truth in the case. The petitioner was also intimated by the Enquiry Officer through a registered post vide No. Steno/97/430-454 dated 26.02.1997 to appear before him on 11.03.1997. The petitioner instead of appearing before the enquiry officer wrote a letter dated 11.03.1997 (Annexure R-II) Stating "that I fail to submit before your goodness for reasons best known to the Hon'ble Governor of Haryana." On 11.03.1997 the Enquiry Officer asked the Civil Surgeon, Faridabad to call Dr. K.P.Singh to attend the enquiry. The Civil Surgeon, Faridabad sent the Tehsil Sanitary Inspector at the residence of the petitioner. The petitioner again wrote a letter dated 11.03.1997 in writing "that I fail to appear provided your good he was so long does not allot a suitable Govt. accommodation be fitted the status and class I group A Civil Services (fixpay)." It is evident that the petitioner has not mentioned any where about non supply of record and intentionally avoided to appear in the enquiry. After that the Enquiry Officer conducted the exparte enquiry. As per the enquiry report the charges leveled against the petitioner in the charge sheet stands proved. The conclusion of the enquiry report is as under:

"That the behavior of Dr. K.P.Singh with the fellow Lady Doctor was not good. The post of doctor is reputable one and doctor is deemed to examine all kinds of patients (men and Women) and at every place, and on many occasions a doctor has to undress male and female patients such as during

operation, during medico legal examination of clinical examination. During enquiry all eye witnesses and Dr. (Smt. Renuka Nath deposed that Dr. K.P.Singh misbehaved with a Lady Officer which is criminal offence. The preliminary enquiry conducted by Dr. R.C.Aggarwal, the statement of eye witnesses and report of the Enquiry Officer indicates that all charges leveled against the petitioner are found true.”

5. On a Court query, learned State counsel submits that not only the aforesaid remains uncontroverted but on his own volition, the petitioner, at the relevant time, chose not to appear before the Inquiry Officer as having been given the opportunity to defend himself and, therefore, at this belated stage he cannot challenge the outcome of the inquiry proceedings having abandoned the same at his own peril.

6. I am in agreement with the stand taken by the respondents as aforesaid. Neither any replication has been filed to the afore noted stand of the respondents nor any additional affidavit of any kind to controvert the same.

7. In view of the aforesaid, no grounds are made out to interfere.

8. Dismissed.

23.05.2022
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No