

398 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-17994-1997 (O&M)

Date of decision: April 25, 2022

Dr. Sanjeev Dua

.....Petitioner

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the petitioner.
 Mr. Deepak Bhardwaj, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition was filed in the year 1997, *inter alia*, for issuance of a writ in the nature of mandamus directing the respondents to treat the petitioner as if he is continuing in service throughout without any break and to pay full salary of the post of Associate Professor for the entire period with interest.

Petition was admitted on 21.04.1998.

When called out for hearing today, there is no representation on behalf of the petitioner. It seems that by sheer effluxion of time and pendency of the writ petition for about 25 years before this Court, either it has been rendered infructuous or even otherwise the petitioner seems to have lost interest in pursuing the same.

In any case, it appears that even on merits, claim of the petitioner is not admissible in view of the following stand taken in Paras 2, 3, 4 and 5 of the preliminary submissions, which is reproduced herein for ready reference:

“2. That in terms of Rule 19(i) of Haryana Medical Education Service Rules 1988, the members of Service shall not be allowed to engage in private practice in any form and they shall be given non-practising allowance at such rates and on such terms and conditions as may be specified by the Government from time to time. That the petitioner being a member of the service got NPA and also engaged himself in private practice and admitted in his reply to the charge-sheet that he continued to see patients and operated patients and those who were acquaintances or approaches through his colleagues and friends. He further said that he was capable of helping doctors to organize and orient their medical facilities towards carrying for neurosurgery afflicted patients. He assisted them in managing difficult cases of those patients

requiring immediate life saving interventions. His only claim was that he did not charge any money. The charge is proved beyond doubt that he attended patients privately.

3. That the petitioner was given full opportunity to defend himself and he was given a second show cause notice on 06.06.97 proposing a penalty of termination of services requiring him to send the representation within 15 days from the receipt of the communication. Dr. Dua did not submit any reply to the competent authority and he submitted reply of this second show cause notice through Sh. Ashwani Kumar, Resident Editor, Punjab Kesari, who forwarded the same to Ch. Bansi Lal, Chief Minister Haryana on 21.07.97 requesting to drop the matter. This representation/reply of Dr. Sanjeev Dua was received after the due time of 15 days. Even this reply was considered by the competent authority and finding no merit it was decided to terminate his services by the competent authority.

4. That the petitioner's (Dr. Sanjeev Dua) name appeared in the Newspaper for doing private practice (Annexure R-I and II). These advertisements have been issued with the consent of the petitioner as he never contradicted these advertisements. That the petitioner is liable to be dismissed on this score that the petitioner proceeded on unauthorized leave even after being specifically told that he should not proceed on leave and indulge in private practice. The petitioner was given full opportunity to defend himself, he did not submit his reply in due time and tried to pressurize the competent authority through a resident editor of newspaper to whom he sent his reply rather than to the competent authority."

It is also to be noted that the stand taken by the department has not been controverted, be it factual assertions or legal submissions, by way of replication and/or even otherwise.

Be that as it may, writ petition is dismissed with liberty to the petitioner to revive proceedings, if still aggrieved.

(ARUN MONGA)
JUDGE

April 25, 2022

vandana

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No