

123

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP-8802-2022 (O&M)****Date of decision : April 28, 2022****Kaptan Singh****.....Petitioner****Versus****State of Haryana and others****....Respondents****CORAM:- HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Vikas Lochab, Advocate for the petitioner.

LISA GILL, J.

Prayer in this writ petition is for quashing of order dated 28.01.2016 passed by the Director Secondary Education Haryana, Panchkula in compliance of order dated 11.09.2015 passed in CWP-19237-2015. Petitioner's request for voluntary retirement has been rejected vide said impugned order.

Brief facts as stated in the writ petition are that petitioner was appointed as Driver in the respondent – Department on 25.04.1986. Petitioner vide order dated 16.01.2014 was transferred from Sonipat to Mewat. It is submitted that as petitioner's health at that time was not good, he was unable to join duty and he submitted medical certificate in this respect before the District Education Office, Mewat. Petitioner was transferred from Mewat to Rohtak vide order dated 05.05.2014. Petitioner is stated to have presented himself for joining duty at Rohtak on 30.05.2014 but he was not allowed to join. Complaint in this respect is stated to have been submitted by the petitioner. District Education Office, Rohtak asked the District Education Office, Mewat for supply of LPC, Service Book and personal file of the petitioner. District Education Office, Mewat vide communication dated 06.06.2014 to the District Education Office, Rohtak

informed that petitioner had submitted medical certificate at Mewat for remaining on leave whereas appropriate medical fitness and proper request letter had not been submitted, therefore, employee i.e. petitioner should be ordered to submit an appropriate application alongwith the medical fitness certificate. Petitioner was thereafter directed to be examined by the Medical Board.

Petitioner ultimately submitted an application for voluntary retirement on 02.06.2014. CWP-19237-2015 was filed by the petitioner seeking direction to the respondents to allow his application for voluntary retirement. Said writ petition was disposed of while directing the respondents to decide the matter within a period of one month. Accordingly, impugned order dated 28.01.2016 was passed rejecting petitioner's request for voluntary retirement. It is specifically observed that petitioner, who was transferred from the District Education Office Sonipat to District Education Office, Mewat did not join at Mewat. He was charge sheeted under Rule 8 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 vide order dated 06.08.2014 for this lapse. He was transferred from DEO, Mewat to DEO, Rohtak and then he joined at DEO, Mewat and remained absent from duty since 01.06.2014. It is further observed that as per the provision of 5.32 B(1) of CSR Vol. II, notice of three months' is required but petitioner remained absent from duty after submitting his application for voluntary retirement.

Aggrieved from this order dated 28.01.2016, present writ petition has been filed now in April, 2022. It is sought to be explained that petitioner was on complete bed rest and due to critical family circumstances, he could not challenge impugned order at an earlier stage. It is, thus, prayed that this petition be allowed.

I have heard learned counsel for the petitioner.

I do not any ground whatsoever to interfere in this writ petition at this stage. First and foremost there is a colossal delay in filing of this writ petition

for which there is no explanation whatsoever, leave alone a reasonable or plausible cause. Though it is mentioned that petitioner is suffering from some chronic problem and is bed ridden but there is nothing on record to indicate such a state of affairs neither is there anything on record to show that since 2016 till today the petitioner was incapacitated to raise any objection qua the impugned order. Medical certificate issued from the office of Civil Surgeon, Rohtak, pursuant to petitioner being examined on 20.07.2016 has been attached which only states that at that time petitioner was suffering from osteoarthritis of both knees with osteoporosis with no other detail whatsoever. Conduct of the petitioner in not even presenting himself for duty subsequent to rejection of request for voluntary retirement and the unexplained colossal delay in challenging the impugned order, in my considered opinion is sufficient to dismiss this writ petition.

Learned counsel for the petitioner on a pointed query is unable to deny that till date petitioner has not joined duty. There is nothing on record to indicate as to whether any action has been taken by the department against the petitioner in this respect. Therefore, prayer for directing respondents to treat the petitioner as a retired employee and grant all other pensionary benefits at this stage, cannot be entertained in this writ petition. In my considered opinion, no ground is made out for any interference in this writ petition.

No other argument has been addressed.

Writ petition is, accordingly, dismissed with no order as costs.

(LISA GILL)
JUDGE

April 28, 2022
rts

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