

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

CWP-13896-2022 (O&M)

Date of decision: August 16, 2022

Sukhbir Singh

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Chanderhas Yadav, Advocate for the petitioner.

Mr. Pankaj Middha, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing/ setting aside order dated 25.10.2017 (Annexure P-12) whereby orders dated 11.07.2016 (Annexure P-11) passed by respondent No.3 and dated 19.02.2014 (Annexure P-9) terminating the services of the petitioner are alleged to have been illegally upheld.

2. Plead case is that services of the petitioner, working as Driver, since 26.05.1999 were terminated vide order dated 19.02.2014 (Annexure P-9) by respondent No.4-General Manager, Haryana Roadways, Rewari, upon his remaining absent from duty w.e.f. 13.04.2011 till 29.04.2011. Said period was ordered to be treated as leave without pay. Petitioner had though submitted medical certificate in this regard. Petitioner preferred an appeal before respondent No.2, which was ultimately dealt with by respondent No.3-Joint Transport Commissioner, Haryana, who dismissed the same without giving any cogent and convincing reasons. Vide impugned order dated 25.10.2017 (Annexure P-12), Additional Chief Secretary, Government Haryana, Transport

Department rejected the appeal of the petitioner. Prior to instant petition, petitioner had earlier filed a Civil Suit before learned Civil Judge (Junior Division), Jhajjar, which was dismissed as withdrawn vide an order dated 16.04.2022 (Annexure P-16), without liberty.

3. Petition is prima facie hit by delay and laches. That apart, given the nature of controversy and disputed facts involved herein, especially the fact that perhaps the petitioner was conscious of the same, and therefore, earlier preferred a Civil Suit, which was later withdrawn, no indulgence can be granted in the extraordinary writ jurisdiction on the principle of res judicata as well. In any case, triable issues ought to be adjudicated by way of adducing evidence by respective parties and cannot be decided on the basis of mere affidavits in the writ jurisdiction.

4. Dismissed with liberty to seek alternative civil remedy as may be available in law, if maintainable and so advised.

(ARUN MONGA)
JUDGE

August 16, 2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No