

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

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CWP-37907-2018 (O&M)

Date of Decision: 02.02.2023

DHARAMVIR

... Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ravi Verma, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

HARNARESH SINGH GILL, J.(Oral)

Through this petition, the petitioner seeks issuance of a writ in the nature of Mandamus directing the respondents to reinstate the petitioner as Sweeper on part-time basis in Government School, District Mahendergarh forthwith, being medically fit and to regularize his services from the date the services of his juniors were regularized i.e. 12.03.2016.

Learned counsel for the petitioner submits that, vide order dated 24.04.2001, the petitioner was appointed as a part-time Sweeper in Government Primary School, Mahendergarh; that the petitioner had joined and worked as such from 15.05.2001 till 17.11.2012; that the petitioner was unable to attend his duties w.e.f. 18.11.2012, as he was undergoing medical treatment for depression from various hospitals and that, after being cured, the petitioner moved a representation to the Directorate Office on 10.09.2017 requesting to allow him to rejoin the duty as Part-time Sweeper. He further submits that the petitioner remained under treatment from Kailash Hospital from 10.04.2014 to

August, 2017, as would decipher from medical certificate dated 28.08.2017 (Annexure P-3).

Learned counsel for the petitioner submits that the petitioner was at serial No.414 in the seniority list and that the services of the employees mentioned from serial Nos.417 to 742 (46 employees), who were junior to the petitioner, were regularized vide order dated 12.06.2016.

Learned State counsel, while rebutting the arguments raised by the learned counsel for the petitioner submits that the petitioner left the job on 17.11.2012, of his own and that too without intimating the Department concerned. She further submits that from November, 2012 till August, 2017, neither the petitioner nor any of his relatives, has filed any application intimating the Department regarding the alleged ill-health of the petitioner and that no leave for the said period, has ever been sanctioned by the Department.

Learned State counsel further submits that though, the medical certificate (Annexure P-3), only indicates that the petitioner underwent medical treatment from Kailash Hospital, w.e.f. 10.04.2014 to August, 2017, yet the fact remains that the petitioner had absented himself from the duties on 18.11.2012 and that there is no justification for the absence from duties w.e.f. 18.11.2012 to 09.04.2014. She further submits that there is no medical record placed on record, which could indicate that the petitioner had ever fallen ill or been suffering from depression. Still further, it is submitted that there was no occasion for the Department to consider the case of the petitioner for regularization, as he

left his job on 17.11.2012, whereas the regularization order was passed on 12.06.2016, in case of juniors and since, the petitioner was not in service, no order could be passed in his favour.

I have heard the learned counsel for the parties.

It is not in dispute that the petitioner joined the Department on 15.05.2001 and had worked as such till 17.11.2012. As noticed above, the petitioner left his job on 17.11.2012 without intimation/approval of the Department concerned, though on account of his alleged illness. As has rightly been pointed out by the learned State counsel, there is nothing on record justifying the absence of the petitioner from duties w.e.f. 18.11.2012 till 09.04.2014. Furthermore, there is nothing on record indicating that the petitioner was suffering from depression, at any stage.

The medical certificate dated 28.08.2017, heavily relied upon by the learned counsel for the petitioner, only indicates that the petitioner was undergoing treatment from Kailash Hospital from 10.04.2014 to August, 2017. Above all, the petitioner did not bother to move an application for leave either himself or through his relatives, at any stage. Thus, filing of the present petition is nothing but an afterthought.

In view of the above, no directions can be issued to the respondents to consider the case of the petitioner for regularization, at this belated stage.

Dismissed.

02.02.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned
Whether reportable

: *Yes/No*
: *Yes/No*