

LPA-2222-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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LPA-2222-2024 (O&M)
Date of Decision: 12.09.2024.

Jaimal Singh

...Appellant.

Versus

State of Haryana and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Birinder Pal, Advocate
for the appellant
(through video conferencing).

Mr. Sukhdeep Parmar, Sr. DAG, Haryana.

LISA GILL, J. (Oral)

1. Prayer in this appeal is for setting aside order dated 20.03.2024 passed by learned Single Bench, whereby CWP-1512-2001 filed by appellant/ writ petitioner has been disposed of as infructuous with liberty to the appellant to seek alternative remedy in accordance with law.
2. Appellant/ writ petitioner had filed the above said writ petition seeking issuance of a writ, order or direction impugning the action of respondents, whereby he is alleged to have been restrained from performing his duties. Appellant claimed that he was appointed on a temporary post of Class-IV by the District and Sessions Judge, Ambala on 11.12.1997. His

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services were terminated on 28.02.1998 and he was re-appointed on 03.06.1998 and was assigned duties of waterman on 11.08.1999. It is stated that he again fell ill. He was again appointed as Usher on 20.10.1999 qua leave arrangement of another employee. However, his subsequent order of appointment as Usher as 'leave arrangement' was cancelled on the ground that he failed to join duty. CWP-1512-2001 was thus filed by the appellant. Case of the appellant was that he was not allowed to work in an illegal manner whereas it was the case of respondents that it was a case of abandonment of duty. No intimation of illness was ever received in their office. When appointed qua leave vacancy from 02.08.1999 to 02.10.1999, he attended work only on 19.08.1999. Subsequently when given another chance, he did not join duty again.

3. The writ petition was admitted on 07.02.2002 and the same was disposed of as infructuous on 18.01.2024 with following order being passed:-

1. *Present Civil Writ Petition has been filed under Article 226/227 of the Constitution of India praying for issuance of a writ, order or direction against the action of the respondents, whereby he is restrained from performing his duties.*
2. *Learned counsel for the petitioner has submitted that he is not in touch with the petitioner and thus, the present petition in all probability has been rendered infructuous, however, liberty be granted to the petitioner to move an application for revival of the same, in case any cause survives.*
3. *In view of the above, the present writ petition is disposed of as having been rendered infructuous, at this stage. Liberty is granted to the petitioner to move an application for revival of*

the same in case any cause survives.

4. Pending miscellaneous application, if any, shall stand disposed of.”

4. Thereafter, CM-4548-CWP-2024 was filed seeking revival of the writ petition. Said application was allowed and after restoration, writ petition was disposed of as infructuous, vide order dated 20.03.2024, which reads as under:-

“1. Present Civil Writ Petition has been filed under Article 226/227 of the Constitution of India praying for issuance of a writ, order or direction against the action of the respondents, whereby he is restrained from performing his duties.

2. Learned State counsel has submitted that the petitioner has already been retired and stay was also declined vide order dated 07.02.2002 and thus, the present writ petition has been rendered infructuous.

3. Learned counsel for the petitioner, in view of the same, has submitted that the present writ petition be disposed of as having been rendered infructuous, but liberty be granted to the petitioner to seek alternative remedy in accordance with law.

4. In view of the above, the present writ petition is disposed of as having been rendered infructuous, with the aforesaid liberty.”

6. It is to be noted that impugned order dated 20.03.2024 has been passed on a specific statement being made on behalf of the appellant. In the given facts and circumstances, we do not find any justification for entertaining the present appeal.

7. Learned counsel for the appellant is unable to explain the reason for such a statement. However, once the said statement has been made before the Court, it is not open to appellant to pursue the present

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appeal.

8. The appellant would be at liberty to avail remedy as may be available to him in accordance with law as observed in impugned order dated 20.03.2024.
9. There is a delay of 131 days in filing the appeal. As the appeal itself has been adjudicated upon on merits, decision on the application (CM-5289-LPA-2024) for condonation of delay is rendered academic.
10. Appeal is dismissed and application is disposed of accordingly.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

12.09.2024.
komal

Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No