

LPA-1295-2015 (O & M)

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Reserved on 17.09.2024

Pronounced on: 21.10.2024

LPA-1295-2015 (O & M)

BAL KRISHNAN

...APPELLANT

VERSUS

STATE OF PUNJAB AND ORS

...RESPONDENTS

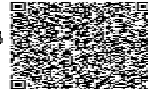
CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMAPresent: Mr.Mahir Sood, Advocate and
Mr. Ashutosh Gupta, Advocate for the appellant.

Mr. Maninder Singh, Sr. DAG, Punjab.

Ms.Shivani Jaglan, Advocate for
Ms. Aashna Gill, Advocate for respondents No.4 and 5.

SUDEEPTI SHARMA, J.

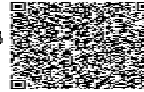
1. The present LPA is preferred against the judgment dated 01.07.2015 passed by the learned Single Judge in CWP-11417-2010 titled as **Bal Krishan versus State of Punjab and others** whereby, the writ petition filed by the appellant for quashing of order dated 15.09.2005 and order dated 16.11.2009 and further for directions to the respondents for counting of period with effect from 26.09.1987 to 16.04.2002 as the duty period for all intents and purposes and thereafter release all consequential benefits and also the revision of pension and pensionary benefits was dismissed.

**LPA-1295-2015 (O & M)****-2-**

2. Brief facts of the case in the writ petition filed by him are that the petitioner, who had joined the respondent-Board as an Assistant Lineman at Chandigarh on 19.03.1965, was promoted to the post of Junior Engineer (Grade-2) w.e.f 21.09.1987. In the meanwhile, upon re-organization of the State of Punjab into the States of Punjab, Haryana, Himachal Pradesh and the Union Territory of Chandigarh, on 01.11.1966, the erstwhile Punjab State Electricity Board is stated to have been dissolved on 02.05.1967, after which new Boards were constituted in the States of Punjab and Haryana, whereas in the Union Territory of Chandigarh and the then Union Territory of Himachal Pradesh, the functions of the erstwhile Board, came to be vested in the Electricity Departments of the Union Territories.

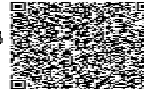
3. The petitioner continued working in Chandigarh with the Electricity Department and eventually, he along with a large number of employees of the Punjab State Electricity Board, working in the Union Territory, Chandigarh, sought to be absorbed in the Union Territory, Chandigarh itself. Since their demand was not acceded to, they eventually filed three Original Applications before the Central Administrative Tribunal, Chandigarh (hereinafter to be referred to as “the Tribunal”), bearing O.A. Nos.580-CH of 1986, 300-CH of 1988 and 471-CH of 1988. Of these, O.A. No.300-CH of 1988 was filed by the petitioner, O.A. No.580-CH of 1986 was filed by the Electricity Employees Union and the third by another employee.

4. The petitioner in the petition stated that since he was an office bearer of the Union, he was “arbitrarily transferred” by the respondent-Board, on 25.09.1987, from Chandigarh to the Ferozepur Circle, where he

**LPA-1295-2015 (O & M)****-3-**

was posted in Abohar Division, vide order dated 20.11.1987. As stated in the petition, the petitioner submitted his joining report to the concerned authority on 01.10.1987 in the Ferozepur Circle and thereafter on 15.01.1988 at the Abohar Division. However, it is alleged that because of the fact that there was no post of Junior Engineer available at the Division level, the Executive Engineer, Abohar and the Superintending Engineer, Ferozepur, deliberately did not give the posting orders to the petitioner in the Sub-Division, resulting in the petitioner actually being positioned nowhere. According to him, he also gave another joining report on 24.03.1988 at the Abhohar Division and yet again, at the same place, on 10.08.1988 and thereafter on 19.09.2000. Copies of all these joining reports have been annexed with the petition, to which the respondents, in their reply, have stated that none of these was accepted, as the petitioner had not furnished the “account rendering certificate” required from his last place of posting, showing his last pay drawn there and giving clearance that no recovery is to be effected from him. The petitioner, on the other hand, has annexed a copy of the last pay drawn certificate issued by the Executive Engineer, Electricity, OP-I, U.T., Chandigarh, dated 09.11.1987, showing that there was no recovery pending against the petitioner and also giving therein the break-up of pay drawn by him.

5. Factually, it is admitted on both sides, that effectively, the petitioner never worked either at the Headquarters of Ferozepur Circle, nor at the Division, or anywhere in the jurisdiction of the place of his posting, after he was relieved from duty from the Union Territory, on 25.09.1987.



6. On 16.05.1988, the learned Tribunal passed an order, rejecting the prayer made for interim relief, by the petitioner, in O.A. No.300-CH of 1988, seeking that he be continued to be posted at Chandigarh. The Tribunal found that since he had already been relieved on 25.09.1987, it would not be appropriate to grant him the interim relief prayed for. While rejecting the prayer for interim relief, the following order was passed by the Tribunal:-

“...In the circumstances we think just and proper that the petitioner shall be allowed leave of the kind due and admissible to him for the period he has not actually worked and reported for duty to his parent department, i.e. Punjab State Electricity Board subject to the final decision of this case. Therefore, we direct the respondents to grant leave to the petitioner of the kind due and admissible to him under the Rules till the case is finally disposed of or he reports on duty.”

7. Thus, by its order dated 16.05.1988, the Tribunal directed the respondents, i.e. the Electricity Board, to grant leave to the petitioner of the kind due as admissible to him till the final disposal of the main case, i.e. O.A. No.300-CH of 1988, or till, he reports on duty.

8. Therefore, it is obvious that the Tribunal was seized of the fact that either the petitioner had not actually joined his new place of posting, or if a formal joining letter had been submitted by him, he was not actually working there. It is important to notice that this order has not been referred to or even mentioned anywhere in the petition, but has been specifically relied upon by the respondent-Board in its written statement to the petition and a copy of the said order has been annexed thereto.



9. It is also necessary to notice that the order of the Tribunal dated 16.05.1988, as regards rejection of the prayer for interim relief and as regards the directions issued therein, attained finality, either not having been challenged, or if any challenge was brought, the same has not been brought to the notice of this Court by either side, including in the replication filed by the petitioner and as such, obviously any such challenge, if brought, was without success.

10. Eventually, all three O.As. filed before the Tribunal were dismissed on 17.07.1999, by a detailed judgment annexed as Annexure P-1 with the petition and thereafter the SLP/Civil Appeal filed by the petitioner before the Hon'ble Supreme Court, was also dismissed by a detailed judgment dated 29.08.2000 (Annexure P-2 with the petition).

11. After the petitioners' claim to be absorbed in the cadre of the Electricity Department of the Union Territory, Chandigarh, was dismissed, he eventually again sought to join duty at the Abohar Division on 19.09.2000, vide a joining report of the same date, a copy of which has been annexed as Annexure P-8 with the petition but has been specifically denied to have been received by the respondents, in their written statement. Thereafter, the petitioner is stated to have made various representations to the Director, Personnel (T) of the respondent-Board at Patiala, on 09.10.2000, 20.12.2000, 26.12.2000 and 23.04.2001, which are admitted by the respondents, though it is refuted that there was any dereliction by the Superintending Engineer concerned, in not allowing the petitioner to join duty, as that was because the petitioner had not submitted an account rendering certificate from the U.T., Chandigarh. Therefore, without the

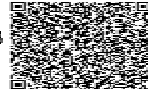
**LPA-1295-2015 (O & M)****-6-**

certificate, he could not have been allowed to join duty, as per the respondents. It has been further stated that the petitioner should actually have approached the Superintending Engineer himself, rather than the Director, Personnel, thus bypassing the proper channel.

12. On 04.05.2001, the petitioner submitted an “arrival report” to the Superintending Engineer, Muktsar Circle (D.S.), i.e. successor to the Ferozepur Circle, as regards Abhohar Division. But, allegedly, again he was not allowed to join duty, despite orders dated 31.01.2000, stated to have been passed by the competent authority in the Board, directing the Superintending Engineer that the petitioners' place of posting was at the Abhohar Division. Though the order dated 31.01.2000 has not been annexed with the petition, the order itself has not been denied by the respondents; however, the same reason has been reiterated, that since the petitioner had not given his account rendering certificate, he could not have been allowed to join duty. The same story continued with representations being given to various authorities on 07.05.2001, 11.05.2001, 15.06.2001, 20.06.2001, 24.06.2001, 04.07.2001 and 06.07.2001.

13. These representations/joining reports/arrival reports have all been admitted by the respondents, with again the same reasoning given, for not allowing the petitioner to join his duty.

14. On 19.07.2001, the Senior Executive Engineer (Abohar Division), Muktsar, issued a letter to the petitioner giving therein the reasons as to why he was not allowed to join duty and requesting him to produce the “relieving chit/account rendering certificate from the previous circle” so that he may be allowed to join duty. As per the petitioner, since there was no

**LPA-1295-2015 (O & M)****-7-**

practice in Chandigarh to issue an account rendering certificate other than the last drawn pay certificate showing that there was no recovery due from him, he again simply went and requested that he may be allowed to join duty on 27.07.2001 and thereafter again represented on 07.08.2001, after which the Executive Engineer (Operation Division), Abohar, wrote to the Executive Engineer, Sector-17, U.T., Chandigarh, on 08.08.2001, asking for the account rendering certificate, to which the latter replied on 07.03.2002, giving the factual position and further stating that nothing was outstanding against the petitioner in the Union Territory, Chandigarh. In the meanwhile, the petitioner thereafter again sent his representation on 25.12.2001, to the Senior Executive Engineer, Muktsar, stating that other than the no due certificate issued by the SDO concerned from Chandigarh, on 25.09.1987, no other certificate would be forthcoming from the U.T., Chandigarh. However, the petitioner is still stated to have been not allowed to join duty, leading to his filing a civil suit in Patiala, on 01/02.04.2002, for declaration and permanent injunction. Though, the details of what was originally prayed for in the civil suit have not been given, either in the petition or in the reply, the respondents have annexed a copy of the amended plaint filed by the petitioner in the year 2007, challenging the same orders as have been impugned in the present petition, since, by that time, the first of the orders impugned in the present petition, had been passed on 15.09.2005.

15. In the meanwhile, on 09.04.2002, the Executive Engineer (Operation Division), Muktsar, issued orders permitting the petitioner to join duty at Sub-Division Lakheywali, where he joined on 17.04.2002.



16. After he joined duty, eventually, the petitioner was issued a charge-sheet on 25.09.2002, by the Chief Engineer (West), Bathinda, making out the following charges against him:-

“He (Bal Krishan J.E.-II) when he was working in duty Admn. Chandigarh (Chief Engineer Duty Electricity Wing) his transferred order was issued by the Chief Engineer A&T, PSEB, Patiala vide office No.299 dated 15.09.1987 to Ferozepur Circle and SE Ferozepur Circle posted him to Abohar Division vide his office order No.279/87 dated 20.11.1987. And it was mentioned in the said posting order that employee should bring account rendering certificate from his previous station of posting.

He (Bal Krishan JE-II) in compliance of above posting order and was relieved on 25.09.1987 A.N. From Electricity Operation Division No.1, U.T., Chandigarh, but in compliance of order he did not bother of these instructions/orders and remained absent from duty.

He (Bal Krishan JE-II) put an application OA No.300 CH/1988 in Central Admn Tribunal Chandigarh (CAT), the decision of CAT on dated 17.07.1995 was against him but he did not join his duty. He (Bal Krishan JE-II) filed a civil appeal No.10705 of 1995 in the Supreme Court of India and his appeal was dismissed on dated 29.08.2000 by the Supreme Court. He did not report for duty one pretext or the other. After that S.E. Operation Circle Muktsar issued a posting order vide his office



order No.157 dated 25.05.2001. He (Bal Kisan JE-II) was posted at Muktsar Division by modified his office order from Abohar to Muktsar and conditions mentioned in the Ferozepur Circle office order No.279 dated 20.11.1987 as it is.

He (Bal Krishan JE-II) was asked to join his duty vide SE Muktsar vide Regd. Letter No.13867 dated 20.07.2001. The Senior Executive Engineer Operation Division Muktsar issued Regd. Letter No.13247 dated 20.07.2001. The Senior Executive Engineer Operation Muktsar issued a Regd. Letter No.9541 dated 19.07.2001 Endst.No.10417 dated 08.08.2001 report for duty after getting a rendering certificate from previous station of posting. He did not join his duty on pretext or the other. He (Sh. Bal Krishan JE-II) attended his duty on 17.04.2002. He, is, therefore, guilty for absence of duty from 26.09.1987 to 15.04.2002.

He (Bal Krishan JE-II) for above reasons/lapses/irregularities for disciplinary action as per PSEB employees punishment and appeal regulation 1971. You are liable for punishment.”

17. In a nutshell, the petitioner was charged with being absent from duty since 26.09.1987 to 15.04.2002.

18. As per the petitioner, no list of documents was ever supplied to him as were being relied upon by the respondents, nor was any list of witnesses provided to him, as laid down in Regulation 8(3) (i) of the Employees Punishment and Appeal Regulations, 1971 (in short “the Regulations”) issued by the respondent-Board. Therefore, he represented for



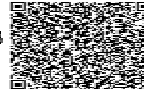
the same on 17.10.2002 and then again on 22.04.2003, to enable him to “file an effective reply to the chargesheet”.

19. Allegedly, the said documents were never supplied to him and in the meanwhile, the petitioner retired from service on reaching the age of superannuation on 31.05.2003, after which, he is stated to have made yet another representation for the documents on 29.12.2003. Though these representations are admitted by the respondents, however, it is contended that, firstly, the documents asked for by the petitioner were already in his possession and, consequently, no statement of witnesses was required, for him to file a reply to the chargesheet.

20. The impugned order dated 15.09.2005 came to be passed, without holding any enquiry against the petitioner.

21. The bone of contention, thus, is that whereas the petitioner considers it to be an order of punishment, the respondents have stated that since the period of absence of the petitioner has been treated to be leave of the kind due to him, no order of punishment, under the Regulations, has been imposed; and as such, no enquiry was needed, the matter having been actually treated sympathetically in favour of the petitioner.

22. As already noticed earlier, in appeal, while the substantive part of the order was upheld as regards most of the period of the leave of the kind due to the petitioner, however, the appellate authority decided to treat the period from 19.09.2000 to 16.04.2002 to be a “compulsory waiting period”, rather than a period of absence. The significance of these dates is that, the judgment of the Supreme Court, dismissing the appeal filed by the petitioner and his co-employees, seeking absorption in the U.T., Chandigarh, was stated



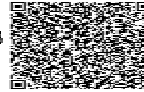
to have been delivered on 19.09.2000 (as per the order of the appellate authority) and the petitioner actually joined duty on 17.04.2002.

23. Thus, this period of one year, 6 months and 28 days, is the period when the petitioner, according to the respondents, should have been allowed to immediately join, upon his first representation having been made for joining (Annexure P-8), after the Supreme Court judgment. (Factually, the order of the appellate authority, Annexure P-35, wrongly gives the date of the Supreme Court judgment as 19.09.2000, whereas that is actually the date that the joining report of the petitioner was submitted to the Abohar Division, after the judgement, which is dated 29.08.2000).

24. The Union Territory, Chandigarh-respondent No.1 and also on behalf of respondents No.4 and 5, have also filed a reply, giving the date of the petitioner being relieved from duty, as 25.09.1987 and clarifying the fact that no formal account rendering certificate is issued by the Department of Electricity.

25. It has also been stated that no stay order was ever passed by any Court against the petitioners' repatriation or his relieving order and as such, the petitioner actually remained absent from duty from 26.09.1987 to 16.04.2002. In other words, as regards the main charge against the petitioner, the Union Territory is in agreement with the respondent-Board.

26. The orders challenged in the writ petition are that the petitioner was held to be "at fault for the charges levelled against him" and thereafter his period of absence from duty, from 26.09.1987 till 16.04.2002, was sanctioned as leave of the kind due.



27. Thus, the period from 26.09.1987 to 30.05.1988 was treated as 248 days of earned leave with full salary, from 31.05.1988 to 13.08.1989, as 440 days of leave with half his pay and from 14.08.1989 to 16.04.2002, i.e. 4629 days as leave without pay. The order also states that other than the period of 4629 days that has been treated to be leave without pay, the other periods, i.e. the period of earned leave with full salary and leave with half pay, would be counted for grant of annual grade increments.

28. This order having been appealed against to the competent authority, the order of the Engineer-in-Chief was largely maintained but the period that was treated to be leave without pay by the Engineer-in-Chief, was reduced till 18.09.2000, i.e. the period for which the petitioner is to be treated to have been on leave without pay, was given by the appellate authority, in effect, to be from 14.08.1989 to 18.09.2000 and the period from 19.09.2000 to 16.04.2002 was ordered to be treated as “compulsory waiting period” by the appellate authority.

29. After hearing both the parties, learned Single Judge dismissed the writ petition vide judgment dated 01.07.2015. Hence, the present Letters Patent Appeal.

SUBMISSION OF COUNSEL FOR THE PARTIES

30. Learned counsel for the appellant contends that learned Single Judge has not correctly comprehend the situation of the present case, therefore, the findings of learned Single Judge are erroneous and incorrect. Therefore, he prays that the present appeal be allowed and judgment dated 01.07.2015 passed by the learned Single Judge be set aside.



31. Per contra, learned counsel for the respondents argue on the lines of the judgment dated 01.07.2015 and contended that the writ petition filed by the petitioner has rightly been dismissed by the learned Single Judge.

32. We have heard learned counsel for the parties and perused the whole record of this case. Relevant portion of the judgment of the learned Single Judge is reproduced hereunder:-

“19. Having heard counsel for the parties and having gone through the pleadings in detail, two facts are glaringly obvious.

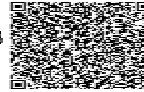
The first, that the petitioner did not factually join duty at Abohar, despite having submitted his joining report initially on 01.10.1987. The second that the respondents made no efforts to even initiate disciplinary proceedings against him after he did not join duty, allegedly on the ground that he was not being allowed to so join, without production of an account rendering certificate from the Electricity Department of the Union Territory, Chandigarh. Whereas this could have been a valid excuse for not joining duty even for a few weeks, that excuse would run out its course after a short period of time, because in case such was the reason for the petitioner not being allowed to join duty, the easiest thing for him to do would have been to meet higher level officers in the respondent-Board, explaining the position to them that other than the last pay certificate containing a sentence that nothing was due from the



petitioner, the U.T., Chandigarh was not issuing any other certificate. The petitioner, obviously deliberately, chose not to do so, harbouring the hope that he would succeed in the Original Application filed by him before the Tribunal and, therefore, remain posted in Chandigarh, where he admittedly had remained posted for 22 years, i.e. 1965 to 1987, prior to his being posted out w.e.f. 25.09.1987.

The contention that the petitioner kept giving representations to allow him to join even after 01.10.1987, is again without any substance because, though he did fulfill that formality in the form of such representations on 15.01.1988, 24.03.1988 and on 10.08.1988, he made no serious efforts in the form of trying to meet superior officials/officers or, in the alternative, even if that was failing, to approach a Court of law to ensure that he was allowed to join at the place of his posting. That course he adopted only in the year 2002, after having lost his case for absorption in the Union Territory, Chandigarh, up to the Supreme Court.

Further, as already noticed earlier, between 10.08.1988 till 19.09.2000, for more than 12 years, he did not even go through the formality, of filing a representation to allow him to join his place of posting. Nothing further than this need actually be said, by which his intention to never join his place of posting, can be seen.

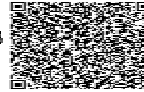


20. *It needs mention again that between the joining reports dated 14.03.1988 and 10.08.1988 (Annexures P-6 and P-7), submitted to the Executive Engineer of the Abohar Division, the order of the Tribunal, dated 16.05.1988, came to be passed, refusing interim stay and directing the respondents to grant leave to the petitioner of the kind due to him, as was admissible under the Rules, “till the case is finally disposed of or he reports for duty”*

In the opinion of this Court, the petitioner actually tried to draw advantage from this order by, thereafter, not making any serious attempt to join duty, other than submitting another joining report on 10.08.1988, after which he remained silent for more than 12 years.

The order of the Tribunal allowing him leave of the kind due and admissible, either till the case (O.A. No.300-CH of 1988) was finally disposed of, or till he reported on duty, obviously gave him leeway and shelter to avoid joining duty and though this is not recorded in any order of the respondents, it was possibly because of this that no disciplinary proceedings were initiated against him.

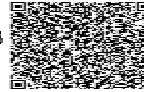
However, that does not absolve the respondents for dereliction in discharging their duty, because when the case before the Tribunal was not reaching a conclusion in the immediate future, a duty was cast upon them to actually seek modification of the said order and thereafter, if the petitioner



still did not join duty, to initiate disciplinary proceedings against him.

Similarly, the petitioner, either by taking shelter of the said order, or for any other reason, not having made any serious effort to join duty, as already discussed in detail, especially for the 12 years between 1988 to 2000, cannot be allowed to take advantage of his absence from duty, on account of any inaction on the part of the respondents, to ensure that he does so join. If anything, it points to collusion between the petitioner and the officers/officials of the respondents-Board, due to which neither was any attempt made to get the order dated 16.05.1988 modified by the Tribunal, or to try and ensure that the petitioner joins duty, failing which he would have to face disciplinary proceedings.

21. *Be that as it may, the very fact that the respondent-Board itself decided to initiate disciplinary proceedings, only exactly 15 years after the petitioner was relieved from the duty in U.T., Chandigarh, and not proceed with a regular departmental enquiry and to instead treat the absence period of the petitioner as leave of the kind due, is leniency enough shown to the petitioner, either under the shelter of the order dated 16.05.1988 or otherwise; and, in the opinion of this Court, no further leniency, whatsoever, can be shown to him, after a wilful absence of atleast twelve years, if not more,*

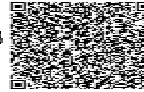


especially on hypertechnical grounds which are also actually non-existent.

22. *The contention that the impugned order treating his period of absence as leave of the kind due is a punishment order, is wholly without any foundation, inasmuch as, though obviously it has financial and career implications for the petitioner, it is actually a way out, given to him to avoid dismissal from service for a prolonged absence for almost 1½ decades.*

Undoubtedly, the impugned order dated 15.09.2005 suffers from the vice of holding, before treating the petitioners' absence period as period spent on leave of the kind due, him to be at fault in respect of the charges levelled against him. Correctly, even though 'fault' of not joining duty for 15/12 years is very much that of the petitioner, however, once having decided to treat his period of absence as leave of the kind due, the order should, perhaps, have been worded better by stating that the petitioner was being treated with leniency and the chargesheet was being dropped by treating his absence as period of the leave of the kind due.

Yet, in the opinion of this Court, the four lines that constitute the fourth paragraph of the impugned order, stating that after keeping the comments of the Engineer-in-Chief in view, the official was held at fault for the charges levelled against him, does not not detract from the fact that actually no



punishment was imposed on the petitioner, not even a minor punishment, and he was let off very lightly by treating the long period of his absence as leave of the kind due to him.

Therefore, at best, that clause of the impugned order, should be treated to have been expunged.

23. *It also needs notice that the petitioner chose not to file a reply to the chargesheet ever since it was issued to him, on 25.09.2002, till the time of his retirement on 31.05.2003. The reason for non-filing of the reply has been given by the petitioner to be that no documents, or statement of witnesses, in respect of the charges, were supplied to him, despite his asking for the same time and again.*

Whereas this may otherwise have been a valid reason for directing that disciplinary proceedings be continued from the point of the chargesheet, after supplying the relevant documents to the petitioner, however, in the present case with actually no punishment order having been passed against him, there is no occasion for this Court to direct the same.

24. *Even if the matter is examined from the point of view (and the fact) that the order of the Central Administrative Tribunal, dated 16.05.1988, was never challenged or modified, obviously that order would, by virtue of its very wording, continue to enure till the time that the petitioner actually joined duty, with the intervening period being treated as leave of the kind due to him. That is exactly what has been done by the*

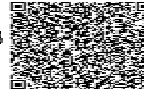


respondents. Hence, with the order of the Tribunal also continuing to sustain, till the time that the petitioner joined duty, in fact, I do not see what other order could have been passed by the respondents, (after they chose not to seek any modification of the order), except to treat the intervening period of 15 years as leave of the kind due to him, strictly as per the directions given by the Tribunal in the said order dated 16.05.1988.

However, to repeat and emphasize again, the respondents are obviously as guilty as the petitioner, by even not trying to make him join duty, if necessary by seeking a modification of the said order of the Tribunal.

The petitioner undoubtedly became serious in trying to join duty w.e.f 09.10.2000, after he lost the litigation to be absorbed in the U.T. Chandigarh, up to the Supreme Court on 29.08.2000. Even then, actually, in the opinion of this Court, he acted seriously to ensure his joining, by filing a civil suit, only in the year 2002, i.e. about a year and half to two years after he submitted his joining report on 19.09.2000.

Be that as it may, since the respondent-Board itself has decided to treat the period from 19.09.2000 till the date that the petitioner actually joined duty, on 17.04.2002, as a compulsory waiting period, and has actually paid him all arrears and benefits of the said period, nothing further is being said in regard thereto.



25. *The contention of Mr. Sharma, learned counsel for the petitioner, that this period cannot be dichotomized from the period from 26.09.1987 to 08.09.2000, is wholly without basis, for the reasons already given in detail, i.e. that since 1988 to 2000, the petitioner was simply taking advantage of the situation and making no attempt to actually join duty, whereas after he lost his case in the Supreme Court, he made representations on 09.10.2000, 20.10.2000 and 26.12.2000 etc., to try and join duty; and even though he actually went to Court seeking that he be actually allowed to so join only in the year 2002, the respondent-Board has still given him the benefit of two years absence for that period also, from 09.10.2000 onwards. Hence, the two periods, from 26.09.1987 to 08.09.2000 and 09.10.2000 to 16.04.2002, cannot be equated with each other for any other benefit whatsoever, other than what has already been given to the petitioner by the respondent-Board, itself.*

26. *In view of the above, I find no reason to grant the petitioner any more benefit of his absence for about 15 years, other than as has already been granted by the respondents vide the impugned order.*

The petition is, consequently, dismissed.

27. *Since the petitioner has tried to take advantage of his own wrong and in the opinion of this Court, filed a wholly frivolous petition, after having being treated with such leniency*



by the Respondents, he is saddled with costs of Rs.10,000/-, to be deposited with the High Court Legal Services Committee.

The amount is specifically not being ordered to be paid to the respondents, in view of the fact that they also did not raise a little finger to try and ensure that he joined his duty, for almost 1 ½ decades.”

33. A perusal of the above shows that learned Single Judge has rightly observed that the respondents took a lenient view by treating the absence period of the appellant of about 15 years as leave of kind due.
34. The judgment passed by the learned Single Judge is detailed and self-speaking by taking into consideration each and every aspect/evidence on record. Therefore, we do not find any infirmity in the same and the same is upheld.
35. In view of the above, the present appeal is dismissed being devoid of any merit.
36. Pending application(s), if any, stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

21.10.2024
A.Kaundal

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No