

**CWP-25610-2023****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(221)****CWP-25610-2023****Date of Decision : February 10, 2026****Narinder Singh****.. Petitioner****Versus****Union of India and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. M.S. Dhimi, Advocate, for the petitioner.

Mr. Parvesh K. Saini, Senior Panel Counsel,
for respondent No.1-UOI.**HARSIMRAN SINGH SETHI J. (ORAL)**

1. In the present writ petition, the challenge is to the order dated 24.10.2008 (Annexure P-5) whereby the petitioner has been dismissed from service and subsequent order dated 19.11.2019 (Annexure P-7) passed by respondent No.2, and order dated 15.09.2023 (Annexure P-8) passed by Armed Forces Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') by which, the claim of the petitioner for the grant of pensionary benefits on the ground that he had served for 18 years before he was declared deserter, has been declined.

2. Learned counsel for the petitioner argues that once, the service rendered by the petitioner before being declared as a deserter, is not being denied by the respondents, the respondents are under an obligation to grant the pensionary benefits as, after serving 15 years, an employee becomes entitled for pension, which fact has not been noticed by the Tribunal while declining the said benefit.

**CWP-25610-2023****2**

3. Learned counsel appearing on behalf of respondent No.1 submits that the petitioner on termination of extension of leave had not re-joined duty and he was declared deserter on 28.04.2005. He went abroad and remained there for a period of 11 years and thereafter, upon return, raised a claim for the grant of pensionary benefits by converting dismissal into discharge from service, which has rightly been declined by the Tribunal on the ground that the deserter, is not entitled for any benefit.

4. We have heard learned counsel for the parties and have gone through the record with their able assistance.

5. The claim is with regard to the pensionary benefits at the hands of the petitioner.

6. On being asked to point out any provisions of law under which a deserter can be granted the benefit of pension even if he/she has completed 15 years of service, learned counsel for the petitioner has not been able to point out any such Rule to claim the benefit of pension and that too qua a deserter who left the service and went abroad and remained there for a period of 11 years.

7. Further, the claim of the petitioner is that no enquiry was conducted by the respondents after he was declared as a deserter.

8. It may be noticed that it is a conceded position that without informing anyone and without taking any leave, the petitioner left his job. Court of enquiry was initiated and the summons were served upon the wife of the petitioner, who pleaded that the petitioner has already left for abroad. That being so, once even the petitioner was not even in the country, he cannot be allowed to say that he should have been served before holding the



CWP-25610-2023

3

enquiry to declare him as a deserter and take ultimate action for dismissal from service.

9. As per the settled principle of law settled by the Hon'ble Supreme Court of India in ***SLP(C) No.24220-24221-2007 titled as Vijay S. Sathaye Vs. Indian Airlines Ltd. and anr. And ors decided on 06.09.2013,*** wherein it has been held that where the non-performance of a duty is for a shorter period, the same is to be treated as on duty but where an employee has not performed the duties for months together, the same has to be treated as abandonment of job and where the job has been abandonment, no order is required to be passed even terminating the services. The relevant paragraph of the judgment is as under:-

“ 9. It is a settled law that an employee cannot be termed as a slave, he has a right to abandon the service any time voluntarily by submitting his resignation and alternatively, not joining the duty and remaining absent for long. Absence from duty in the beginning may be a misconduct but when absence is for a very long period, it may amount to voluntarily abandonment of service and in that eventuality, the bonds of service come to an end automatically without requiring any order to be passed by the employer.

10. In M/s. Jeewanlal (1929) Ltd., Calcutta v. Its Workmen, AIR 1961 SC 1567, this Court held as under: “.....there would be the class of cases where long unauthorised absence may reasonably give rise to an inference that such service is intended to be abandoned by the employee.” 6 Page 7 (See also: Shahoodul Haque v. The Registrar, Co-operative Societies, Bihar & Anr., AIR 1974 SC 1896).

11. For the purpose of termination, there has to be positive action on the part of the employer while abandonment of service is a consequence of unilateral action on behalf of the



employee and the employer has no role in it. Such an act cannot be termed as 'retrenchment' from service. (See: State of Haryana v. Om Prakash & Anr., (1998) 8 SCC 733).

12. In Buckingham and Carnatic Co. Ltd. v. Venkatiah & Anr., AIR 1964 SC 1272 while dealing with a similar case, this Court observed : "Abandonment or relinquishment of service is always a question of intention, and normally, such an intention cannot be attributed to an employee without adequate evidence in that behalf." A similar view has been reiterated in G.T. Lad & Ors. v. Chemicals and Fibres India Ltd., AIR 1979 SC 582. 7 Page 8.

13. In Syndicate Bank v. General Secretary, Syndicate Bank Staff Association & Anr., AIR 2000 SC 2198; and Aligarh Muslim University & Ors. v. Mansoor Ali Khan, AIR 2000 SC 2783, this Court ruled that if a person is absent beyond the prescribed period for which leave of any kind can be granted, he should be treated to have resigned and ceases to be in service. In such a case, there is no need to hold an enquiry or to give any notice as it would amount to useless formalities. A similar view has been reiterated in V.C. Banaras Hindu University & Ors. v. Shrikant, AIR 2006 SC 2304; Chief Engineer (Construction) v. Keshava Rao (dead) by Lrs., (2005) 11 SCC 229; and Regional Manager, Bank of Baroda v. Anita Nandrajog, (2009) 9 SCC 462."

10. A similar view was also taken by this Court while passing order in ***RSA-1274-2013 titled as, State Bank of Patiala and others vs. Bhagwan Dass Ahuja, decided on 08.05.2023*** wherein also, this Court held that when there is an abandoned job by an employee, no disciplinary proceedings are required to be conducted before terminating the services of such an employee. The said judgment has already been upheld by Hon'ble Supreme Court of India in ***SLP (C)19314-19315-2023, decided on***



CWP-25610-2023

5

06.09.2023.

11. Learned counsel for the petitioner relies upon the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No. 352 of 2017 (Arising out of Dairy No.20062 of 2016) titled as S Muthu Kumaran vs. Union of India and others, decided on 17.01.2017*** to contend that if a person has served for more than 17 years, he cannot be dismissed from service and his punishment be modified to discharge, is completely misconceived as in the present case, the petitioner himself deserted the service and left to abroad coupled with the fact that order of dismissal is not under challenge.

12. Learned counsel for the petitioner further submits that the petitioner could have only been dismissed from service on 28.04.2008 and not from 27.04.2008.

13. It may be noticed that merely that the petitioner has been dismissed from a day prior does not give him a right to challenge that order once the action being deserter has been taken, which fact has not been disputed coupled with the fact that the petitioner was gainfully employed in England.

14. Further, the order of dismissal is not under challenge and the only claim for the grant of pension on completion of 15 years of service has been raised. As the petitioner is unable to point out any rule, which allows the benefit of pension/pensionary benefits to a dismissed employee. Hence, no reason arises to grant the pensionary benefits to a dismissed employee.



CWP-25610-2023

6

15. Keeping in view the totality of the circumstances, no ground is made out for any interference by this Court.
16. Accordingly, the writ petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

February 10, 2026
harsha

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No