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

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CWP-8405-2018 (O&M)
Date of decision: 22.01.2025

Anish Kumar

...Petitioner

Versus

Punjab School Education Board and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Parvez Chugh, Advocate for
Mr. Manpreet Singh Dua, Advocate for the petitioner.

Mr. Sehajbir Singh Aulakh, AAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is for quashing the order dated 06.05.2013 on the ground that no notice was given to the petitioner who was working as Social Science Master on temporary basis.
2. Learned State counsel refers to paras 2 to 4 of the reply, to which there is no rebuttal by filing any replication or even during the course of hearing, read thus:-

“2. That in this regard it is submitted that petitioner remained unauthorizdly absent from his duty w.e.f. 2.7.2012. When this fact came to the knowledge of the department that numerous teachers of the department are unauthorizdly absent from their duty for quite a long time resulting into the loss of studies of the students and therefore has negatively impacted the teaching learning atmosphere in the Government Schools where they were posted, it was decided to take action against them as per rules. Thereafter vide office Memo No. 17/2-2012 In. (1) R: 006787 dated

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27.11.12 a public notice was published in the News papers namely (The Tribune, Rozana Ajit and Hindustan Times) on 4.4.2013 through which show cause notice was issued to the Absentee teachers, and they were called upon to show cause within a period of 30 days from the publication of this notice, as to why action should not be taken against them for having abandoned their jobs, failing which it shall be presumed that they have nothing to say and further action in the matter, as deem fit, shall be taken. It is pertinent to mention that the petitioner did not reply to this notice by any means of communication. Hence vide order dated 6.5.2013 services of the petitioners were terminated w.e.f. 02.07.2012.

3. That the Hon'ble Court in Vijay S.Sathaye V/s Indian Airlines Ltd. & others 2014 (3) RSJ 1 (SC) held that it is clear cut case of voluntary abandonment of service. Absence of duty in the beginning may be a misconduct but when absence is for a long period, it may amount to voluntary abandonment of service and in that eventuality, the bonds of service came to an end automatically without requiring any order to be passed by the employer.

In Syndicate Bank V/S General Secretary, Syndicate Bank Staff Association and another AIR 2000 S.C (2198) and Aligarh Muslim University & ors. V/s Masnoor 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 shall 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/s Shri Kant AIR 2006 SC, 2304, Chief Engineer (Construction) V/s Keshava Rao (dead) by LRS, 2005 (11) SCC 229 and Regional Manager, Bank of baroda V/s Anita Nandrajog, 2009 (9) SCC 462.

4. That vide letter no. 2/1/2017-3 F.P 2/189 dated 12.5.17 issued by Govt. of Punjab, Department of Finance (Finance Personnel-2 Branch) it has been decided that if any officer / employee remains absent from their duty without prior approval of the leave and remains so for more than one year it shall be presumed that he has given resignation from his Govt. service meaning thereby it shall be treated as his deemed resignation. After completion of such time he shall not be allowed to rejoin the government service. Copy of letter dated 12.05.2017 is annexed herewith as Annexure R-1. It is pertinent to mention that the petitioner remained absent from job w.e.f. 02-07-12 and never communicated

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with the department until in the year 2018 by way of filing present writ petition.”

3. Accordingly, the present petition is hereby dismissed.

22.01.2025

ashok

**(AMAN CHAUDHARY)
JUDGE**

Whether speaking : Yes/No
Whether reportable : Yes/No