

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

**CWP No. 10283 of 2015
Date of decision:06.07.2015**

CP-180 Kuldeep Singh

....Petitioner

Versus

Chandigarh Administration and others

.... Respondents

**CORAM: Hon'ble Mr. Justice Surya Kant
Hon'ble Mr. Justice P.B. Bajanthri**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. K.B.Sharma, Advocate
for the petitioner.

P.B. Bajanthri, J.

The petitioner is aggrieved by the order of the CAT dated 18.11.2013 passed in O.A. No.10/CH/2013 and M.A. No.08/2013 by which the penalty imposed on the petitioner is upheld.

2. The petitioner while working as Sub-Inspector, was involved in criminal proceedings for the offences under Sections 107 and 151 of Cr.P.C. Arising out of the aforesaid alleged offences, disciplinary proceedings were initiated by framing charge on 19.11.2007. In the disciplinary proceedings, the charge was proved. Consequently, the disciplinary authority imposed the penalty of dismissal of service on 11.07.2008. The petitioner feeling aggrieved by the order of dismissal preferred an appeal before the appellate authority. The appellate authority modified the penalty from dismissal to that of stoppage of 4 increments with cumulative effect. Still aggrieved by the aforesaid modified penalty order petitioner preferred revision petition

before the revisional authority. The revisional authority modified the order of the appellate authority from stoppage of 4 increments with cumulative effect to that of stoppage of 2 increments with cumulative effect. The petitioner further aggrieved by the order of the revisional authority preferred application before the CAT, Chandigarh. On 18.11.2013, application filed by the petitioner before the CAT, Chandigarh was dismissed both on the ground of delay, laches and merits, which has prompted the petitioner to file this writ petition.

3. The CAT, while exercising discretionary powers vested in it rejected M.A. No. 8/2013 for condonation of delay of 613 days and also rejected the original application No. 10/CH/2013 on merit. The petitioner's counsel vehemently contended that disciplinary authority, appellate authority and revisional authority have failed to consider the case on merits. Since the enquiry proceedings were not held in accordance with the procedure under the Punjab Police Rules and he has not been given opportunity to cross examination. The CAT considered the points raised by the petitioner and rightly rejected as it was a vague contention. It is to be noted that the petitioner remained ex parte in the disciplinary proceedings which indicates that he was not serious in pursuing the matter.

4. In the writ petition the petitioner's counsel contended that he had an excellent case on merits and the Tribunal ought not to have rejected it mainly on the ground of delay. The said contention is not tenable for the reasons that CAT has considered not only the question of delay and laches on the part of the petitioner but also dealt on merits. Therefore, there is no infirmity in the order of CAT.

5. The conduct of the petitioner shows that there is no diligence in pursuing the matter for the reasons that there was a delay of 613 days in approaching the Tribunal. Even approaching this court, he has taken almost a year. Moreover, petitioner is serving in a discipline force like police department, he should have been careful in public life.

6. At this juncture, we may refer to a decision of the Supreme Court in *Union of India versus Manab Kumar Goha* (2011)11 SCC 535 in which it is laid down that the power of judicial review over orders of the disciplinary authority is different from appeal and does not permit appreciation of evidence unless the findings are perverse and that as long as findings are based on material on record on proper appreciation of evidence, the same cannot be interfered with. In the present matter, the petitioner did not participated in the enquiry proceedings and he has not pointed out that any perverse evidence has been taken into consideration in the disciplinary proceedings. Therefore, a writ court would be reluctant to interfere with the disciplinary proceedings on appreciation of evidence. It is to be noted that the appellate authority and revisional authority were considerate in modifying the penalty of dismissal of service despite charge was proved. Thus, we do not find any merit in the writ petition and dismiss the same.

7. No order as to costs.

(SURYA KANT)
JUDGE

(P.B. BAJANTHRI)
JUDGE

06.07.2015
pooja saini