

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

CWP No.16439 of 2014 (O&M)

Date of Decision: 27.07.2015

EHC Ghamandi Lal

....Petitioner

Versus

State of Haryana and others

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see the judgment ? (Yes/No)**
- 2. To be referred to reporters or not ? (Yes/No)**
- 3. Whether the judgment should be reported in the Digest ? (Yes/No)**

Present:- Mr. R.K. Malik, Sr. Advocate
with Ms. Rimple Sohi Kadyan, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. D.A.G., Haryana
for the respondent-State.

DAYA CHAUDHARY, J.

The present petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *certiorari* to quash the order dated 24.04.2010 (Annexure P-1) passed by the Superintendent of Police, Sirsa, whereby, the services of the petitioner have been dismissed without holding any regular inquiry and without granting any opportunity of hearing to the petitioner as well as the orders passed in the appeal and in the revision.

Brief facts of the case, as have been stated in the petition, are that the petitioner was initially appointed as a Constable on regular basis on 10.11.1991. However, vide order dated 24.04.2010, the petitioner was

dismissed from service by invoking powers under provisions of Article 311 (2)(b) of the Constitution of India. The order of dismissal from service was challenged in statutory appeal before the Inspector General of Police, Hisar Range, Hisar but the same was dismissed on 26.10.2010. Against the aforesaid order, the revision petition lies with the Government, so he filed the revision petition before the Financial Commissioner-cum-Principal Secretary but he was orally informed that the revision petition was maintainable before Director General of Police, Haryana, who, when approached, dismissed the same on the ground of delay vide order dated 05.07.2014.

The order of dismissal of the petitioner from service, orders passed in the appeal as well as in the revision petition are subject matter of challenge in the present petition by raising various arguments.

Learned senior counsel for the petitioner submits that the impugned orders are violative of Rule 16.24(3) of the Punjab Police Rules. He further submits that neither any complaint was there nor any adverse remarks were made against the petitioner during his 19 years of service. Moreover, no finding was recorded while invoking the provisions of Article 311(2)(b) of the Constitution of India. It is also the argument of learned senior counsel that the revision petition filed by the petitioner was dismissed being time barred without even considering the application for condonation of delay, whereas, sufficient reasons were mentioned in the application. Even a single line has not been mentioned in the order as to why the reasons mentioned in the application for condonation of delay were not found to be acceptable by the Revisional authority.

Learned counsel for the respondent-State submits that the petitioner was having links with known criminals. One Amar Singh, the known criminal, against whom many FIRs were registered, has mentioned

in his statement that he was having connections with the petitioner. Many connecting links were also explained in the questions put to him during interrogation. Learned State counsel also submits that there was an unexplained delay in filing of the revision petition as the appeal was dismissed on 26.10.2010 and the revision petition was filed before the Director General of Police, Haryana, Panchkula on 01.03.2013. Learned State counsel also submits that it was time barred and the same was dismissed on the ground of delay.

Heard the arguments of learned counsel for the parties and have also perused the documents available on the file.

Admittedly, the petitioner was dismissed from service on 24.04.2010 on the basis of allegations levelled against him. However, against the order of dismissal, the appeal was filed, which was dismissed on 26.10.2010 by the Inspector General of Police, Hisar Range, Hisar. Initially, the revision petition was filed before the Government on 29.11.2010 but the same was not considered and in February, 2013, it was intimated to the petitioner that the revision was maintainable before the Director General of Police, Haryana. Thereafter, the petitioner filed revision petition on 01.03.2013 before the Director General of Police. It is also not disputed that the petitioner had filed an application for condonation of delay mentioning therein that a wrong remedy was availed by him by filing revision petition before the State Government, whereas, the revision petition was maintainable before the Director General of Police. The reasons were also mentioned for availing remedy of revision at a belated stage. The Revisional authority, while dismissing the revision petition, has simply mentioned that there is a delay of more than two years against the prescribed period of one month and the revisionist has not been able to specify any ground for this inordinate delay. The revision petition was

rejected being time barred and not maintainable. The relevant portion of order dated 05/07.07.2014 passed in the revision petition is reproduced as under :-

“ The revision petition has been filed on 12.03.2013 against the appellate order dated 26.10.2010. According to provision of PPR 16.32, an officer whose appeal has been rejected, may apply, within a month of the date of dispatch of appellate order to him, to the authority next above. It is clear that there is a delay of more than two years as against the prescribed period of one month. In his revision petition, the revisionist has not been able to specify any ground for this inordinate delay. As such, the revision petition submitted by EHC Ghamandi Lal No.869/SRS is rejected being highly time barred and not maintainable.”

Along with the revision petition, a specific application was also moved by the petitioner for condonation of delay in filing the revision petition, which is annexed as Annexure P-6 with the present petition. It has been mentioned in the application that the first revision petition was filed within the period of limitation and the delay occurred because of the reason that the revision against the order of Inspector General of Police was maintainable before the Secretary Financial Commissioner and Home Department, Government of Haryana, Chandigarh. The revision petition filed by the petitioner before the Financial Commissioner remained pending for a long period and the same was not disposed of either way. After the lapse of more than two years, he came to know from the Office of the respondent that the revision petition was maintainable before the Director General of Police. He made a request to transfer his revision petition but no order was passed. Thereafter, the revision petition was filed before the competent authority along with the application for condonation of delay.

In the order passed by the Revisional authority, it has not been mentioned as to whether the reasons recorded in the application filed by the petitioner were found to be satisfactory or not. Simply by stating in one line that the revision petition is time barred and the same was dismissed, is not sufficient as the grounds taken therein were also to be considered by the Revisional authority. The order passed by the Revisional authority is not only cryptic but non-speaking as nothing has been mentioned therein except the dismissal of revision petition being time barred. Such order, being non-speaking, whereby no reason has been disclosed, is liable to be quashed.

In view of the facts as mentioned above and without commenting anything on the merits of the case, the order passed by the Revisional authority dated 24.04.2010 is set aside with a direction to respondent No.2 to consider the revision petition afresh and pass the order after considering the grounds mentioned in the revision petition as well as the application filed by the petitioner by giving opportunity to him, if necessary, within a period of two months from the date of receipt of certified copy of this order.

27.07.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE