

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

(224)

CWP-17629-2014 (O&M)

Date of decision: 18.08.2015

Mohinder Ram

....Petitioner

Versus

State of Punjab and others

.... Respondents

CORAM: 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. G.S.Guri, Advocate
for the petitioner.

Mr. Vaibhav Sharma, DAG, Punjab.

Mr. G.S. Bal, Sr. Advocate with
Mr.ADS Bal, Advocate for respondent No.2.

P.B.Bajanthri, J (Oral)

The petitioner is an employee in the Education Department. He was subjected to disciplinary proceedings on various allegations. He was suspended and in the disciplinary proceedings he was penalized as under:-

“1. Under Rule 5(IV), read with Rule 6 of Punjab School Education Board, Employees (Punishment and Appeal) Rules, 1978, his next two annual increments without further effect are stopped.

2. Rule 16 Punjab School Education Board, Employees (Punishment and Appeal) Rules, 1978, read with Rule 7.3 (B)-(5) Punjab School Civil Services Rules, Edition-1, Part-1, he be paid only 75% salary for his suspension period.

3. Rule 7.3(B) (7) of Punjab Civil Services Rules, Edition 1 Part 1, his suspension period not be

considered for any other benefit without continuity of your service.

2. *Shri Mohinder Lal, Assistant Examination Branch -2 (Under Suspension) is reinstated in the services of Board with immediate effect.”*

The disciplinary authority passed penalty order on 24.04.1991. Feeling aggrieved by the order of the penalty he preferred an appeal before Appellate Authority on 21.06.1991. The same was rejected by the Board-Appellate Authority on 25.10.1991. When things stood thus, the petitioner presented the present writ petition on 22.08.2014 and questioned the validity of the disciplinary authority's order dated 25.04.1991 vide Annexure P6 passed by the 2nd respondent.

Learned counsel for the petitioner submitted that he has been punished twice for the same allegations and he is not aware of the order passed by the Appellate Authority dated 25.10.1991.

Per contra, counsel for the respondent submitted that the petition is highly belated and petitioner has not questioned the order dated 25.10.1991 i.e. Appellate Authority's order. Thus, the petitioner is not entitled for relief sought in the present petition.

Heard counsel for the parties.

The court while exercising its jurisdiction under Article 226 is duty-bound to take all the relevant facts and circumstances into consideration and decide for itself even in the absence of proper pleadings.

The court has to examine the following factors:

- a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;
- b) the petition reveals all material facts;
- c) the petitioner has any alternative or effective remedy for

- the resolution of the dispute;
- d) person invoking the jurisdiction is guilty of unexplained delay and laches;
 - e) ex facie barred by any laws of limitation;
 - f) grant of relief is against public policy or barred by any valid law; and host of other factors.

In the present petition the petitioner has questioned the validity of the disciplinary authority's order dated 24.04.1991 on 22.08.2014 and further submits that he has no knowledge of appellate authority's order dated 25.10.1991 as he has not questioned the appellate authority's order in this petition. Having regard to the conduct of the petitioner that he had slept over the matter and not ventilating the grievance timely. When the principle is that the courts exercising public law jurisdiction do not encourage agitation of stale claims and exhuming matters. The petitioner kept silent for more than 14 years and filed a highly belated petition. On account of inordinate delay and laches the present writ petition suffers from legal infirmities and therefore, is liable to be rejected at threshold without looking into the merits of the case.

The petition should have been rejected with exemplary cost, since petitioner is already out of service a lenient view has been taken to impose cost of Rs.5000/-.

(P.B.Bajanthri)
Judge

18.08.2015
pooja saini