

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3236 of 2015
Date of Decision: 24.02.2015

Sadhu Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Gagan Pradeep Singh Bal, Advocate,
for the petitioner.

1. To be referred to the Reporters or not? **Yes.**
2. Whether the judgment should be reported in the Digest? **Yes.**

RAJIV NARAIN RAINA, J.

An order of dismissal from service inflicted on August 25, 2003 has been challenged for the first time in this writ petition filed in February 2015. There is no explanation or sufficient cause shown for the delay except citing judicial orders passed in other cases by pleading discrimination in the matter of punishment by claiming parity with others who got off lightly. Even if it is so, it is too late in the day to allow the petitioner to lay challenge to an order against which even if a suit were filed in the civil court, the same would be barred by limitation. It is well settled that a void order also de facto operates till it is declared null and void by a court of law. Cf. **State of Punjab vs. Gurdev Singh**, AIR 1991 SC 2219, a case of termination from service overruling two Division Bench rulings of this Court in *State of Punjab v. Ajit Singh*, [1988] 1 SLR 96 and *State of Punjab v. Ram Singh*, [1986] 2 SLR 379 taking a contrary view; [ref. Art. 113 of the

Limitation Act, 1963]. The Supreme Court *inter alia* quoted from Prof. Wade (See: Administrative Law 6th Ed. p. 352) where the learned author sums up these principles:

"The truth of the matter is that the court will invalidate an order only if 'the right remedy is sought by the right person in the right proceedings and circumstances. The order may be hypothetically a nullity, but the Court may refuse to quash it because of the plaintiff's lack of standing, because he does not deserve a discretionary remedy, because he has waived his rights, or for some other legal reason. In any such case the 'void' order remains effective and is, in reality, valid..."

If the petitioner felt satisfied for the last twelve years by remaining inert and having waived his rights, then the writ court exercising discretionary jurisdiction would not act in his aid or to interfere in the matter when delay, laches and limitation have clouded his remedy. Interference is not called for at all also in view of the dicta in **State of Madhya Pradesh v. Bhailal Bhai**; AIR 1964 SC 1006 [CB], observing that the maximum period fixed by the legislature as the time within which the relief by a suit in a civil court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Art. 226 can be measured.

Besides, it is not known whether the petitioner filed a statutory appeal to the designated appellate authority in State Government against the dismissal order. Nothing meaningful is stated in the petition with respect to this. Then, after twelve years it would not be fair or proper to direct the respondents to now entertain an appeal, as urged by counsel, given that one was not filed within the period of limitation provided in the statutory rules [Punjab Civil Services (Punishment & Appeals) Rules, 1970] against an order dismissing an employee from service. The request is declined. Even

before the administrator limitations operate and are to be honoured. In passing, it may be mentioned that the cause of dismissal of the petitioner was embezzlement of Government revenue adequately proven on evidence after a regular inquiry was conducted. That was a serious charge to have slept over without taking timely recourse to law. If the statutory time limit expires the Court cannot give the declaration sought for.

For the foregoing reasons, the petition stands dismissed in limine.

(RAJIV NARAIN RAINA)
JUDGE

24.02.2015
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