

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

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Civil Writ Petition No.8564 of 2014

Date of Decision:08.05.2015

Sukhwinder Singh

....petitioner

Versus

State of Punjab and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

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

Present: Mr.Anupam Bhardwaj, Advocate
for the petitioner

ARUN PALLI, J.(ORAL):-

A writ in the nature of certiorari is prayed for, so as to quash the order dated 11.10.2006 (Annexure P5), vide which the petitioner was dismissed from service, and also orders dated 14.03.2007 (Annexure P6), 28.08.2007 (Annexure P7) and 30.07.2013 (Annexure P8), whereby the appeals/revision/mercy petition preferred by the petitioner were dismissed.

Petitioner i.e.Ex-Constable Sukhwinder Singh was married to Kamaljit Kaur. As she could not bear a child, he filed a petition for dissolution of marriage. While the first marriage was still subsisting, he solemnised a second marriage with Amandeep Kaur, daughter of Swaran Singh on 20.06.2001. A departmental enquiry was ordered against the petitioner and having been found guilty of

the misconduct, he was dismissed from service. So much so, competent authority i.e.Senior Superintendent of Police, Amritsar, while passing the order of dismissal observed that one Seema Rani, daughter of Rajinder Kumar, also appeared before him and maintained that the petitioner had even performed marriage with her also. She produced the photographs of their marriage. That being so, it was concluded that the petitioner had even contracted a third marriage, and was not fit to be retained in service being guilty of grave misconduct.

Being aggrieved, petitioner preferred an appeal which was dismissed vide order dated 14.03.2007 (Annexure P6). Thereafter, petitioner even preferred a revision petition to Inspector General of Police, Border Amritsar, who heard the petitioner in person. Petitioner conceded his guilt and prayed for pardon. But as he had contracted a second marriage and had violated the conduct rules, revision petition preferred by him was also dismissed vide order dated 28.08.2007 (Annexure P7). Post passing of the order dated 28.08.2007 (Annexure P7), petitioner did not assail the order of his dismissal any further, and thus, the same attained finality with efflux of time. However, subsequently, he moved a mercy petition to the Government, which too was dismissed vide order dated 05.10.2009. Again, years rolled by, and once again the petitioner attempted to revive an old, stale and settled claim by moving yet another mercy petition which too was dismissed vide order dated 30.07.2013 (Annexure P8), with an observation that even earlier the petition filed by the petitioner was dismissed by the Government on

05.10.2009, and nothing new was brought on record thereafter.

I have heard learned counsel for the petitioner and perused the paper book.

On a due and thoughtful consideration of the matter in issue, I am of the considered view that the instant petition is devoid of merit and is, thus, liable to be dismissed for the reasons that are being recorded hereinafter.

Concededly, the petitioner contracted second marriage during the subsistence of his marriage with Kamaljit Kaur. He not only violated the provisions of Hindu Marriage Act, 1955, but also breached the conduct rules. He conceded his guilt while appearing in person before the appellate authority on 24.08.2007. Indisputably, the order of dismissal of the petitioner from service was preceeded by a fair and proper departmental enquiry. Post dismissal of the petitioner, his appeal on 14.03.2007 (Annexure P6) and thereafter even his revision petition was dismissed on 28.08.2007 (Annexure P7). So much so, even the mercy petition preferred by the petitioner was dismissed by the Government on 05.10.2009. It would be apposite to point out, at this juncture, that after dismissal of the mercy petition on 05.10.2009, the petitioner did not assail his dismissal any further and thus, the orders passed by the authorities attained finality. Not just that, the second order i.e.dated 05.10.2009, has not even been placed on record. Institution of another mercy petition by the petitioner in 2013, particularly when an identical petition in this regard already stood dismissed on 05.10.2009, was of no consequence and meaning in law. No fresh cause of action had

accrued to the petitioner. No fresh material or evidence was brought on record so as to justify filing of the subsequent petition. In any case, the order dated 30.07.2013 (Annexure P8) can hardly be termed as an order as it does not decide or determine the rights of the petitioner, but is merely a communication. It does not provide any fresh cause of action to the petitioner. Meaning thereby, vide instant petition, the petitioner in essence seeks to assail the order of his dismissal that was passed almost 8 years ago. Even the mercy petition, post dismissal of his appeal and revision, was dismissed on 05.10.2009 and even from that date, the petition having been filed after 5 years, suffers from inordinate, gross and un-explained delay. And, is thus, liable to be dismissed on that score alone. Nothing could be pointed out as to how the conclusions arrived at by the authorities were either contrary to the position on record or suffered from any material irregularity. Ex facie, the petition is merely speculative in nature and seriously lacks bona fides.

In the wake of the position, as sketched out above, no interference in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India, is warranted. The petition being devoid of merit is accordingly dismissed.

08.05.2015

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(ARUN PALLI)
JUDGE