

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.2037 of 2014 (O&M)
Date of Decision: March 10, 2015

Jagdeep Singh

.....Appellant

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE NARESH KUMAR SANGHI.

Present:Mr.Ashok Bhardwaj, Advocate,for the appellant.
Mr.Aman Bahri, Additional AG, Punjab.

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

Surya Kant, J. (Oral)

Notice of motion.

On our asking, Mr.Aman Bahri, learned Additional Advocate General, Punjab, accepts notice on behalf of the respondents.

Let three copies of the paper book be handed-over to the learned State counsel during the course of day.

In view of the nature of order which we propose to pass, it is not necessary to seek any counter-reply from the respondents at this stage.

The instant letters patent appeal has been filed against the order dated 07.03.2014 whereby learned Single Judge has dismissed the appellant's writ petition on the ground of delay and laches.

The facts are like this. The appellant was appointed as a Special Police Officer (SPO) in Punjab Police on 18.09.1992. The Director General of Police, Punjab, had formulated a policy whereunder the SPOs, to a limited extent, were to be adjusted as Constables subject to their qualifying suitability test etc.

The appellant also appeared for those tests and on the recommendations of the Central Recruitment Board, constituted as per the DGP's standing order dated 18.07.2001, he qualified the test of physical measurement, physical events, written test and interview. Consequently, the appellant was allocated Constabulary No.36/413 (Annexure P-1).

The order enlisting the appellant as Constable, was soon thereafter withdrawn vide order dated 17.07.2004 on the ground that he was facing criminal case registered vide FIR No.98 dated 25.03.2003 under Sections 171, 420, 465, 467, 120-B IPC, registered at Police Station Sarabha Nagar, Ludhiana.

The appellant waited for his acquittal in the above-stated case which he earned on merits vide judgment dated 23.11.2009.

Thereafter, the appellant submitted a representation on 18.09.2010 seeking re-consideration of his claim for enlistment as Constable. He then got served the authorities with a legal notice dated 16.05.2013 also. The appellant relied upon certain instances of similarly placed persons who after their acquittal in criminal case, were reinstated as SPOs vide orders dated 24.05.2003, 17.11.2005 and 07.09.2004 (Annexures P-7, P-8 & P-9, respectively). As no decision on the legal notice was taken, the appellant

approached this Court but the learned Single Judge viewed that since the order challenged in the writ petition is of the year 2004, there was inordinate delay and laches in approaching the Court.

We have heard learned counsel for the parties and gone through the paper book.

As the facts would speak for themselves, the cause of action to approach the authorities for re-consideration of the matter arose to the appellant in November, 2009 only when he earned acquittal on merits. The appellant may not have been very prompt in approaching the authorities or this Court thereafter but such a delay is not of fatal in nature that the petitioner ought to have been thrown out of the Court at the threshold. In such a case, if the authorities or the Court finds any merit in the claim, the equities can be well balanced by denying the back wages etc.

We, however, do not express any views on merits as to whether or not after acquittal the appellant is entitled to restoration of constabulary number or his enlistment as a Constable. Suffice it to observe that such a decision has to be taken by the Competent Authority keeping in view their policy decision and other relevant factors. Consequently and for the reasons afore-stated, we allow this appeal; set-aside the order dated 7.3.2014 of the learned Single Judge and dispose of the appellant's writ petition without expressing any views on merits, with a direction to respondent No.2 to consider the above-mentioned claim of the appellant in accordance with law and take an appropriate decision within a period of four months from the date of receiving a certified copy of this order. It is further made clear that if the Competent Authority

decides to reinstate the appellant and take him back as a Constable, in that case, no monetary benefit shall be granted to him and he shall be entitled to notional benefits only till the date of actual reinstatement.

Ordered accordingly.

Dasti.

[SURYA KANT]
JUDGE

March 10, 2015
Mohinder

[NARESH KUMAR SANGHI]
JUDGE

208 CM No.4296-LPA of 2014 in
LPA No.2037 of 2014.

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Jagdeep Singh versus State of Punjab and others

Present : Mr.Ashok Bhardwaj, Advocate,
for the applicant-appellant.
Mr.Aman Bahri, Additional AG, Punjab.

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Having regard to the facts and circumstances of
the case and for the reasons mentioned in the application, the
same is allowed subject to all just exceptions and 239 days'
delay in filing the appeal is condoned.

CM stands disposed of.

(SURYA KANT)
JUDGE

March 10, 2015

Mohinder

(NARESH KUMAR SANGHI)
JUDGE