

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.22961 of 2013

Date of Decision: 12.08.2016

Constable Lajpat Rai

... Petitioner

Versus

Director General of Police
and others

... Respondents

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

Present: Ms. Alka Sharma, Advocate,
for the petitioner.

Ms. Shruti Jain Goel, AAG, Haryana.

RAJIV NARAIN RAINA, J.

1. The petitioner was a Constable Driver in Haryana Police posted in PCR rank at the time of committing misconduct for which he was charge-sheeted alongwith two other policemen. In the inquiry the charge was proven which findings are challenged in this petition, including quashing of the penalty orders.
2. The disciplinary authority- the Superintendent of Police, Panchkula inflicted punishment of withholding of five increments with cumulative effect vide order dated August 26, 2004.
3. His appeal to the Inspector General of Police, Ambala Range, Ambala Cantt. was rejected.
4. Aggrieved, the petitioner preferred a revision before the Director General of Police, Haryana who partially allowed the revision and reduced the punishment from five to four annual increments with

cumulative effect. The order in appeal was passed on December 30, 2004 while in revision on February 22, 2006. The orders became final. The petitioner has rested satisfied with the orders for more than 7 years.

5. The present petition has been filed in the year 2013 against the impugned orders of 2004 and 2006. The limitation provided under Article 113 of the Limitation Act, 1963 for a suit is three years from the date the cause of action arose. If this petition was a suit it would be barred by limitation.

6. In the present case, the cause of action arose lastly in 2006 and, therefore, this petition is barred by long lapse of time. In State of Madhya Pradesh v. Bhailal Bhai, AIR 1964 SC 1006 the SCI has held that where the limitation in bringing a suit has run out, the writ Court would ordinarily not interfere and it would be prudent not to entertain the cause. The exception to the rule may lie where fundamental rights in Part III of the COI are involved and remedy against violations pressed as oppressive, court may then consider exercise of discretion to remove unfair discrimination. But that is not the case presented. Moreover, none of the petitioner's fundamental rights have been infringed by the impugned orders. His civil rights have lapsed by conduct. Even assuming that the orders are void, which they are far from, even then the question of delay, laches and bar of limitation arise, and the petition has to be dismissed; see ruling in State of Punjab and others vs. Gurdev Singh, (1991) 4 SCC 1.

7. I would therefore not interfere in this matter and would dismiss the petition on delay, laches and by reason of the period of limitations having expired many years ago. Besides, interference would be unwarranted

when there is no explanation in the petition of what the petitioner did during the period 2006 to 2013 which kept him back from approaching Court timely for relief. In view of the absolute legal bar operating against the petitioner, which is of his own making, the question of looking into the merits of the case would not deserve serious consideration. In any case, the matter is in motion hearing and not admitted for regular hearing and thus the objection of legal bar can well be sustained, this court having not expressed any opinion on the point when motion was issued to the respondents. File be consigned.

(RAJIV NARAIN RAINA)
JUDGE

12.08.2016

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Whether speaking/reasoned Yes/No

Whether reportable Yes/No