

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.5084 of 2016

Date of decision: 17.3.2016

Inspector Tripta Sood

...Petitioner

Versus

The State of Punjab and another

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Sunil Chadha, Senior Advocate with
Mr. Rahul Bhargava, Advocate for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges orders dated 7.8.2006, 14.7.2008, 6.12.2012 and 2.11.2015 (Annexures P/2, P/3, P/4 and P/6 respectively) whereby representations/appeal seeking expunging adverse remarks in her Annual Confidential Report for the year 2004-05 have been dismissed.

Senior counsel for the petitioner has vehemently submitted that in column no.6 of the ACR mention of FIR no.52 dated 20.10.04 under Section 7, 13(2) of the Prevention of Corruption Act, 1988 had been made and the petitioner has been acquitted in the said FIR on 2.1.2013 (Annexure P/5). Therefore, the reason for giving adverse remarks has evaporated. It is accordingly submitted that the case needs to be adjudged again regarding this issue.

This Court does not agree with the submission which has been made by the senior counsel.

It is not disputed that adverse remarks were incorporated for the period from 1.4.2004 to 31.3.2005 on all parameters across the board by the reporting officer on its subjective satisfaction. The said adverse

remarks were duly communicated to the petitioner which read as under:-

“1.	Reputation and honesty	She is corrupt and takes bribe. Her reputation for honesty is bad.
2.	Moral Courage and Quickness in ascertaining the malafide intention of subordinates.	Bad. She is in league with subordinate staff, who indulge in corruption.
3.	Reputation regarding dealing with general public and impartial behavior.	Not credible. She has adopted corrupt methods.
4.	Credibility regarding work	Not credible. She has adopted corrupt methods.
5.	Capability of management and control and implementing discipline.	She does not has good control over subordinates. She was with them in wrong doings being committed by them.
6.	Defect if any and whether it has been brought to the notice of said officer in writing.	Case FIR No.52 dated 20.10.04 u/s 7,13(2) P.C.Act, P.S. Vigilance Bureau, Patiala has been registered against her and subordinate official.

She is involved in taking bribe. Above said case FIR was registered against her. She is not credible. During the period under report, the working of official remained below average. She is being kept in 'C' column.”

The petitioner filed representation against the said adverse remarks which was rejected on 14.7.2008 (Annexure P/3). The said communication was never challenged by the petitioner and she opted to having accepted the said finalisation of her career graph.

Thereafter, on account of acquittal she raised the said issue afresh due to which impugned order dated 2.11.2015 (Annexure P/6) has been passed. While rejecting her representation it has been observed that apart from the criminal case, the assessing authority has based the remarks on other reasons also. This would be apparent from the remarks recorded in column nos. 1 to 5 which have been reproduced above regarding all other aspects of the petitioner like credibility of work, dealing

with general public and impartial behaviour etc.

It is not disputed that recording of ACRs is subject to satisfaction of the Reporting Officer and cannot be substituted by availing the remedy under Article 226 of the Constitution of India which is now sought to be done. Even otherwise as noticed the petition is barred by limitation as the rejection was done way back in 2008 and the petitioner had accepted the said order. Merely on account of acquittal, it would not give a fresh cause of action to revive the stale claim. It is settled principle that law protects the ones who are vigilant and do not sleep over their rights.

The Hon'ble Apex Court in **Pundlik Jalam Patil (D) by LR.**
vs. Exe. Eng. Jalgaon Medium Project and another, 2009 (1) PLR 128

has observed as under:-

"14.....The applicant having set the machinery in motion cannot abandon it to resume it after number of years because the authority with whom it had entered into correspondence did not heed to its request to file appeals. The question is : Can the respondent/applicant in this case take advantage of its negligence, after lapse of number of years, of the decision of Government? It knew the exact grounds on which appeals could have been preferred. The law will presume that it knew of its right to file appeal against the award. Everybody is presumed to know law. It was its duty to prefer appeals before the court for consideration which it did not. There is no explanation forthcoming in this regard. The evidence on record suggest neglect of its own right for long time in preferring appeals. The court cannot enquire into belated and stale claims on the ground of equity. Delay defeats equity. The court helps those who are vigilant and 'do not slumber over their rights.'

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18. Shri Mohta, learned senior counsel relying on the decision of this court in [N. Balakrishnan vs. M. Krishnamurthy](#) [(1998) 7 SCC 123] submitted that length of delay is no matter, acceptability of explanation is the only criterion. It was submitted that if the explanation offered does not smack of mala fides or it is not put forth as part of dilatory tactics the court must show utmost consideration to the suitor. The very said decision upon which reliance has been placed holds that the law of limitation fixes a life span for every legal remedy for the redress of the

legal injury suffered. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of Limitation is thus founded on public policy. The decision does not lay down that a lethargic litigant can leisurely choose his own time in preferring appeal or application as the case may be. On the other hand, in the said judgment it is said that court should not forget the opposite party altogether. It is observed:

It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.”

In view of the facts and circumstances noted above, this Court is not inclined to interfere in exercise of jurisdiction under Article 226 of the Constitution of India.

Accordingly, the present writ petition is dismissed.

March 17, 2016
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(G.S.SANDHAWALIA)
Judge