

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

**CWP No.625 of 2016
Date of decision:13.1.2016**

Manjinder Singh

... Petitioner

Versus

State of Punjab & ors.

... Respondents

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

Present: Mr. Amandeep Soni, Advocate,
for the petitioner.

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

RAJIV NARAIN RAINA, J.(Oral)

1. The petitioner is an ex-constable in Punjab Police appointed on November 1, 1992. He proceeded on sanctioned leave on December 3, 2005, overstayed leave without permission and failed to report for duty. As a consequence, disciplinary proceedings were initiated against him which led to his dismissal at the hands of Senior Superintendent of Police, Kapurthala. This was after conducting a departmental inquiry in which the petitioner did not appear to defend himself despite notice, and therefore, the Police Department proceeded against him ex parte. The ex parte report was accepted by the disciplinary authority causing the dismissal from service. Having slumbered for long he woke up after about 5 years and filed an appeal against the dismissal order, which appeal has been dismissed by the Deputy Inspector General of Police, Jalandhar Range, Punjab against which the present petition has been filed under Art. 226 of the Constitution of India.

2. Then, does the petition deserve to be dismissed on the ground of delay and laches in approaching the appellate authority? Indisputably, the cause of action accrued to the petitioner when he dismissed from service. In case a suit was brought in the civil court challenging the dismissal order, it could have been filed within the prescribed period of limitation of three years from the date of accrual of the cause of action against the adverse order and the right to sue as per Section Article 113 of the Limitation Act, 1963: see **State of Punjab v. Gurdev Singh**, AIR 1991 SC 2219. Additionally, where the suit is barred by law, the Supreme Court guides that it would ordinarily be proper for the writ court not to interfere: see **State of Madhya Pradesh v. Bhailal Bhai & ors.**, (CB), AIR 1964 SC 1006.

3. On the merits, it is not the case propounded by the petitioner that he had no notice of the inquiry proceedings and was wrongly proceeded against ex parte which has resulted in a miscarriage of justice.

4. Learned counsel for the petitioner states that the wife of the petitioner received the notice on behalf of the petitioner, which to the mind of this Court, is proper service, in the cumulative circumstances of the case, even when the petitioner as a member of the disciplined force was under constraints of duty to return to his post despite the pendency of the disciplinary proceedings instituted against him for willful absence without leave.

5. For the reasons recorded above, I find lack of valid or cogent reason to interfere in the matter and the petition that has been filed highly belatedly from the perspective of the dismissal order which to say the

least suffers from culpable and unexplained delay and laches putrefied over a long period of time making the claim impassive and thus the prayer merits outright dismissal in limine. Ordered accordingly.

(RAJIV NARAIN RAINA)
JUDGE

13.1.2016
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