

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

LPA No.1486 of 2015

Date of Decision: 05.10.2016

Devender Singh

...Appellant

VERSUS

State of Haryana & Ors.

....Respondents

**CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present:- Mr.Vikas Lochab, Advocate for the appellant.

Mr.R.D.Sharma, DAG, Haryana. for the respondents.

SUDIP AHLUWALIA, J.

This Letters Patent Appeal is directed against the judgment delivered by the Ld. Single Judge on 22.7.2015 dismissing the Civil Writ Petition No.14215 of 2015.

2. The appellant had filed the Writ Petition challenging his dismissal from service as a Constable in the Second Battalion, Haryana Armed Police. He had faced Departmental Inquiry proceedings on the ground of having indulged in misconduct by way of being under the influence of liquor while on duty, and misbehaviour with the staff of Petrol Pump, with whom, he allegedly got into a violent encounter and ultimately ended up loosing his own valuable Identity Card, which was subsequently handed over to the authorities by the public. He was found guilty of the

misconduct charges in the Disciplinary Proceedings and was awarded punishment by way of dismissal from service. He filed Statutory Appeal against the dismissal order passed by the Commandant, Second Battalion, Haryana Armed Police, which in turn, was dismissed by the Inspector General, Haryana Armed Police. The Revision preferred by him against the dismissal of his appeal was in turn also dismissed by the Director General of Police, Haryana. He thereafter claims to have submitted a Memorial/Mercy Petition against the decision of the Statutory Authorities to the Additional Chief Secretary, Home Department, Haryana, but received no reply for a long time. He thereafter submitted an application to the Chief Minister, Haryana seeking redressal of his grievance, but was in turn informed by the Director General of Police that his Mercy Petition submitted earlier had already been rejected. He thereafter made inquiries under the RTI Act as to how such rejection of his Mercy Petition had been conveyed to him, but was informed by the Commandant of the Second Battalion that all the correspondence/records in this regard had been destroyed as per Rules, vide order No.1262-AC-II on 30.1.2015. He, therefore, filed the Writ Petition to challenge his dismissal from service. The Ld. Single Judge, however, found no merit in the same and rejected it by putting the following observations inter-alia -

“The aforementioned fact would reveal that the petitioner has exhausted all the remedies available under the Punjab Police Rules applicable to the State of Haryana by filing revision. There is no provision of filing Mercy petition. The petitioner did not challenge the order of punishment dated 2.11.2006 (Annexure P-5), order dated 28.12.2006 (Annexure P-6) passed in appeal and order dated 13.8.2007 (Annexure P-7) passed in revision and filed writ petition in the year 2015 after obtaining information under the Right to Information Act, 2005 that too in respect of an order dismissing the Mercy petition.”

3. We are in full agreement with the above noted observations of the Ld. Single Judge. The appellant's actual remedy lay in assailing the decisions of the Statutory Authorities in relation to the Disciplinary Proceedings regarding his misconduct. Admittedly, there is no provision in the Rules of filing any 'Mercy Petition', which essentially is an invented device for the purpose of avoiding the penal effects of the Statutory decisions arrived at on merits. The appellant clearly resorted to this device ostensibly since he found his case otherwise weak on merits, and thereafter chose to remain silent for almost nine years when admittedly, his dismissal from service had attained Statutory finality after disposal of his Revision as far back on 13.8.2007. He then tried to rake up the matter again, through his RTI application at such a belated stage when the official records pertaining to his 'Mercy Petition' (*albeit beyond the rules*) had been destroyed. He, therefore, clearly attempted to avoid the natural consequences of such a huge delay in filing the Writ Petition by adopting such dubious means, which cannot be overlooked nor condoned by us in the given circumstances.

4. We, therefore, find no impropriety in the dismissal of his Writ Petition, which the Ld. Single Judge found to be badly hit by inordinate delay and laches. Consequently, this appeal is also dismissed for the same reasons.

(Surya Kant)
Judge

(Sudip Ahluwalia)
Judge

October 05, 2016
AS

Whether speaking/reasoned : **Yes/No**

Whether Reportable : **Yes/No**