

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

CWP No. 11222 of 2016 (O&M)
Date of decision : May 09, 2017

ASI Sultan Singh

..... Petitioner

v.

State of Haryana and others,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Aditya Yadav, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG Haryana

Ajay Tewari, J (Oral)

By way of this writ petition, the petitioner has challenged the action of the respondents in recording adverse remarks in his ACR.

The primary ground taken by counsel the petitioner before me in the arguments is that the statutory representation against the adverse remarks was rejected only on the ground that it was barred by 18 days' delay. Counsel for the petitioner has fairly accepted that in the representation, the petitioner had not given any satisfactory cause for condonation of delay. However, it is his contention that this representation was in the nature of first appeal and the competent authority should have decided it on merits.

On the other hand, learned Sr. DAG Haryana has argued that once the rule itself provides a time limit and it also provides that a

representation can be considered within 90 days beyond the time limit but once the petitioner did not give any satisfactory ground for the delay, no fault can be found with the order rejecting the representation.

Even though the argument of learned Sr. DAG Haryana cannot be taken to be wrong yet it can also not be denied that this representation was in the nature of first appeal against the order rejecting the representation against recording of adverse remarks in the ACR. In the circumstances, I deem it appropriate to permit the petitioner to now move an application for condonation of delay in filing the representation. In case, the competent authority comes to the conclusion that the petitioner has been able to satisfactorily explain the delay and has made out a case for condonation thereof, it would then decide the representation on merits. Needless to say, speaking order be passed in both the eventualities. The petitioner may move the application within one month from the date of receipt of a certified copy of this order and on receipt thereof, the competent authority shall decide the same within three months thereafter.

This petition stands disposed of.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

May 09, 2017
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No