

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

106

CWP No.12146 of 2017

Date of Decision: August 30, 2017

Sukhwinder Singh

....Petitioner

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Jasdeep Singh, Advocate
for the petitioner.

TEJINDER SINGH DHINDSA, J. (Oral)

As per pleadings on record, petitioner, who was serving on the post of Constable, was dismissed from service, vide order dated 22.03.2005, passed by the Senior Superintendent of Police, Patiala. Appeal preferred by the petitioner was rejected by the Deputy Inspector General of Police, Patiala Range, Patiala, vide order dated 28.11.2005. Even a revision petition filed by the petitioner has not been accepted by the Revisional Authority i.e. the Inspector General of Police, Patiala Zone, Patiala, in terms of order dated 05.09.2006. Apparently, the petitioner thereafter preferred a mercy appeal which also has been declined by the office of the Director General of Police, State of Punjab, vide memo dated 29.01.2014 (Annexure P-5).

The instant writ petition is directed against the order

dated 28.11.2005 (Annexure P-2), passed by the Appellate Authority, affirming the penalty of dismissal, order dated 05.09.2006 (Annexure P-3), passed by the Revisional Authority as also order dated 29.01.2014 (Annexure P-5), issued by the office of Director General of Police, Punjab, rejecting the mercy appeal.

Having heard counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that the writ petition deserves to be dismissed on the sole ground of delay and laches.

At the very outset, it may be noticed that for some strange and inexplicable reasons, petitioner has chosen not to place on record the basic order of dismissal from service, passed by the Punishing Authority i.e. Senior Superintendent of Police, Patiala i.e. dated 22.03.2005.

Suffice it to observe that the major penalty of dismissal has been imposed upon the petitioner in pursuance to a regular departmental enquiry having been conducted against the charge of dereliction of duty and carelessness upon having been deputed to take under trials from Central Jail, Patiala to District Court, Patiala.

The order of dismissal from service was passed in the year 2005. The appeal preferred by the petitioner was dismissed by the Appellate Authority on 28.11.2005. Even the statutory remedy of revision having been availed of, was rejected by the

Revisional Authority in terms of order dated 05.09.2006 (Annexure P-3). In spite of a pointed query, having been put, counsel has not advanced any submission with regard to any statutory remedy available to the petitioner after rejection of the appeal as also revision against the order of dismissal.

The order of dismissal having been passed in the year 2005, the same stands affirmed by the Appellate as also Revisional Authorities way back on 05.09.2006 that is the order passed by the Revisional Authority. No justification whatsoever is forthcoming to explain the inordinate delay of more than 11 years in having approached the writ Court after the order passed by the Revisional Authority.

Counsel would attempt to cover up delay by adverting to the order at Annexure P-5 dated 29.01.2014, issued from the office of Director General of Police, Punjab and whereby, a mercy appeal preferred by the petitioner has been dealt with and rejected.

It is by now well settled that repeated representations would not furnish a fresh cause of action. Reference in this regard may be made to the judgment of the Hon'ble Supreme Court of India in the case of **S.S. Rathore vs. State of Madhya Pradesh, AIR 1990 SC 10.**

In the case of **Baljinder Pal Kaur vs. State of Punjab and others 2008(4) SCT 213,** a Division Bench of this Court

considered the issue of delay in a situation, wherein, after exhausting the statutory remedies of appeal and revision, the petitioner having preferred a mercy petition and the same also having been dealt with by passing an order, it was held that cause of action would be taken to accrue from the date of passing of the final order or from the date when appeal or revision provided under law, is disposed of. It was further held that in the absence of any statutory provision providing for the filing of a mercy petition, delay cannot be overlooked merely on account of an order having been passed, on such mercy appeal as it was the employee himself who had invited such order.

In the facts of the present case, the petitioner had exhausted his statutory remedies at the stage of dismissal of his revision petition on 05.09.2006 (Annexure P-3).

There is an inordinate delay of more than a decade in having approached the writ Court.

Petition is dismissed on the ground of delay and laches.

(TEJINDER SINGH DHINDSA)
JUDGE

30.08.2017

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