

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

Date of decision:01.02.2017

Kuldeep Singh

.....Petitioner

VS

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Rishu Mahajan,Advocate for the petitioner.

Jaswant Singh,J(Oral)

Petitioner was appointed as Constable in Punjab police in the year 1989. Subsequently, he was promoted as a Head Constable. On 12.2.2005(P-1) he was served with a charge sheet for remaining absent from duty during 25.5.2004 to 27.9.2004 for 4 months, two days and seven hours.

On 2.8.2006(P-2) he was served with another charge sheet alleging that FIR No.325 dated 31.7.2002 under Sections 22/61/85 NDPS Act,PS Sadar; and FIR No.134 dated 26.5.2004 under Sections 22/61/85 NDPS Act,PS C Division Amritsar were registered against him for having been found in possession of 6 grams and 40 grams of smack from his possession on 31.7.2002 and 26.5.2004 respectively. Petitioner submitted reply dated 31.8.2006 that due to his arrest in aforesaid FIR No.134 dated 26.5.2004 he was in custody which resulted in his absence from 25.5.2004 till 27.9.2004. It appears that a departmental inquiry against the petitioner was initiated. Thereafter, Commissioner of Police, Amritsar vide order dated 23.9.2014(P-4) forfeited 5 years of approved service of petitioner for annual increments qua charge sheet (P-2) for his alleged involvement in

10.11.2014(P-5) petitioner's service was forfeited for four years for increments qua charge sheet (P-1) for absence from duty for 4 months, two days and seven hours. Against the aforesaid order(P-4), petitioner preferred appeal which was dismissed by Additional DGP Law and order, Punjab vide order dated 8.5.2015(P-6).

By way of present writ petition, petitioner is seeking quashing of the charge sheets dated 12.2.2005(P-1), 2.8.2006(P-2) as well as punishment orders dated 23.9.2014(P-4), 10.11.2014(P-5) and appellate order dated 8.5.2015(P-6) on the ground that he was subsequently acquitted of the charges of possession of narcotics framed against him. Violation of principles of natural justice is also alleged.

After hearing the learned counsel for the petitioner, in my opinion, no case for interference is made out and the present writ petition is liable to be dismissed.

It is not disputed that petitioner, who is member of a disciplined force was apprehended on two occasions for having been found in possession of narcotics. He was taken into custody and tried for the offences. Due to his detention, he remained absent from duty for 4 months, two days and seven hours for which he was separately charge sheeted. That apart, he was also charge sheeted for having been found in possession of smack twice. The charges against the petitioner are of very grave nature, however, the punishing authority, had already taken a lenient view and forfeited his approved service, as noticed above although show cause notice was issued for dismissal. Mere acquittal of charges under NDPS Act framed against the petitioner is not sufficient to let him go scot free keeping in view the fact that he has already tarnished the image of disciplined force.

In criminal trial the prosecution is required to prove the charges to the hilt, whereas in departmental inquiry all the mitigating circumstances are required to be examined. There is no allegation of any ill will against the Inquiry Officer or the Punishing Authority. Further, it is apparent that impugned orders have been passed only after perusing the conclusion reports submitted by the Inquiry Officer. It is settled position of law that this Court, while exercising powers under Article 226 of the Constitution cannot interfere in the factual aspect and in case two views are possible, then the view taken by the Punishing Authority has to be upheld. Thus, in this view of the matter, this Court does not find any ground to interfere in the impugned orders, which are completely justified and have in fact taken a lenient view while awarding punishment.

Another factor that has weighed in the mind of the Court, while dismissing the writ petition, is that the Appellate Authority had dismissed the appeal of petitioner way back in May,2015 and it has been subjected to challenge after a gap of more than 1½ years. Although there is no limitation for challenging the orders passed by quasi-judicial authorities, but the petitioner ought to have approached the Court within reasonable time. However, seeing the past conduct of the petitioner and the delay in approaching the Court, this Court has no hesitation in holding that under the facts and circumstances of the case in hand, the petition is also hit by principle of delay and laches.

Dismissed.

01.02.2017
joshi

(Jaswant Singh)
Judge

Whether speaking/ reasoned	Yes/No
Whether Reportable:	Yes/No