

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

102

CWP No.27292 of 2016 (O&M)  
Date of Decision : 18.04.2017

Ashwani Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI**

\*\*\*

Present : Mr. Sandeep Thakan, Advocate  
for the petitioner.

\*\*\*

**AJAY TEWARI, J. (Oral)**

This petition has been filed for setting aside the inquiry report dated 04.07.2011 conducted by Deputy Superintendent of Police, order dated 12.08.2011 passed by Commandant, 3<sup>rd</sup> Battalion HAP, Hisar, District Hisar and order dated 29.09.2016 passed by Inspector General of Police, Hisar Range Hisar vide which punishment of stoppage of two increments awarded.

As per the Rules, he had 30 days in which to file the appeal. He filed the appeal after 2 ½ years and the Appellate Authority dismissed it on the ground of delay. On 09.01.2017 I had put it to the learned counsel to show what were the grounds for condonation of delay if any taken in that appeal.

Today learned counsel has fairly accepted that in that appeal only a prayer for condoning of delay had been made but no explanation for

the delay had been given. Faced with this situation learned counsel has fallen back on the argument that since the punishment order was not passed by a competent authority it was a void order and consequently his challenge against the void order could not have been rejected on the ground of delay.

In *State of Punjab and others Vs. Gurdev Singh, Ashok Kumar, 1991 SCR (3) 663*, it was held as follows :-

*“Prof. Wade sums up these principles:*

*"The truth of the matter is that the court will invalidate an order only if 'the right remedy is sought by the right person in the right proceedings and circumstances. The order may be hypothetically a nullity, but the Court may refuse to quash it because of the plaintiff's lack of standing, because he does not deserve a discretionary remedy, because he has waived his rights, or for some other legal reason. In any such case the 'void' order remains effective and is, in reality, valid. It follows that an order may be void for one purpose and valid for another, and that it may be void against one person but valid against another." (Ibid p. 352) It will be clear from these principles, the party aggrieved by the invalidity of the order has to approach the Court for relief of declaration that the order against him is inoperative and not binding upon him. He must approach the Court within the prescribed period of limitation. If the statutory time limit expires the Court cannot give the declaration sought for.”*

In the circumstances, no fault can be found with the orders of the Appellate Authority dismissing it on the ground of delay.

Petition stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

18.04.2017  
*pooja sharma-I*

( AJAY TEWARI )  
JUDGE

Whether speaking/reasoned - Yes/No  
Whether reportable - Yes/No