

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.28412 of 2017(O&M)
Date of Decision: 14.12.2017

Balwinder Singh

--Petitioner

Versus

State of Punjab and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. V.K. Shukla, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J (Oral)

Notice of motion.

On the asking of the Court, Mr. T.P.S. Chawla, learned D.A.G., Punjab accepts notice on behalf of respondent-State. A complete copy of the petition has been furnished to learned State counsel.

In view of the order that I propose to pass, there would be no requirement of seeking a written response from the State to the writ petition.

Petitioner is serving as a Constable under Punjab Police. Departmental proceedings initiated against the petitioner culminated in the passing of an order dated 27.6.2016 by the S.S.P., Moga, whereby major penalty of forfeiture of two years earned service was imposed upon the petitioner with permanent effect.

Petitioner filed an appeal dated 4.10.2016 (Annexure P-4) and which has been dismissed by the D.I.G., Ferozepur Range, Ferozepur Cantt. holding the same to be time barred.

In the considered view of this Court, the Appellate Authority ought to have dealt with the appeal on merits rather than having declined the same on the issue of delay.

The major penalty was imposed vide order dated 27.6.2016. Undoubtedly, under the statutory rules the limit provided for filing an appeal was 30 days. The appeal was preferred beyond the period of 30 days i.e. on 4.10.2016. Be that as it may, it was not an inordinate delay. Perusal of the appeal at Annexure P-4 reveals that the petitioner had even prayed for condonation of delay. The Appellate Authority has chosen not even to assign reasons to decline the prayer for condonation. Appeal has been rejected by a cryptic one line order stating “***Appeal rejected being time barred***”.

The appeal preferred by the petitioner was towards exhausting a statutory remedy. The punishment imposed is of forfeiture of 2 years earned service with permanent effect. Such a punishment would virtually mar the service career of the petitioner.

Under such circumstances, the order dated 8.3.2017 (Annexure P-5) passed by the Appellate Authority, is set aside. Matter is remanded back to the D.I.G, Ferozepur Range, Ferozepur Cantt. for passing of an order afresh and by considering the appeal dated 4.10.2016 (Annexure P-4) on merits.

Appellate Authority shall decide the appeal within a period of three months from the date of receipt of a certified copy of this order.

It is clarified that this Court has not expressed any opinion on merits as regards the punishment imposed by the S.S.P., Moga vide order dated 27.6.2016.

Petition is disposed of in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

14.12.2017

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