

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.9215 of 2017.

Date of Decision: May 02, 2017

Ex.HGV Sher Singh

.....Petitioner

versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.Madan Lal Saini, Advocate, for the petitioner.

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Surya Kant, J. (Oral)

The petitioner is aggrieved by the order dated 13.07.2016 passed by the Central Administrative Tribunal, Chandigarh Bench whereby his claim for reinstatement as Home Guard volunteer has been rejected.

[2] The petitioner was appointed as Home Guard Volunteer on 18.09.1996. He alongwith one Gauri Shanker and Havaladar Chander Mohan were implicated in a criminal case with the allegation of issuing fake identity cards of Home Guards to several private-persons. The petitioner and Gauri Shankar both were discharged from the rolls of Home Guards on 14.03.2006 due to involvement in that criminal case. They were eventually acquitted in the criminal case on 01.09.2010. Gauri Shankar immediately represented and he was again enrolled as Home Guard Volunteer on 13.06.2012.

[3] The petitioner, however, slept over the matter and did not make any claim till 13.05.2015 when he submitted a representation for his reinstatement. As no decision was taken on the representation, he approached the Tribunal and pursuant to the directions issued in his first

Original Application, his representation was considered and rejected. He thereafter filed second Original Application which the Tribunal has dismissed holding as follows:-

“...5. I have carefully considered the matter. Basic challenge in the instant OA is to order dated 14.03.2006 (Annexure A-6), whereby the applicant was discharged as HGV. The instant OA has been filed on 08.07.2015 i.e., more than 10 years after the passing of the said order, although limitation period was only one year. Thus, the OA is hopelessly barred by limitation. No application has either been filed to condone the delay in filing the instant OA. Even otherwise, such long and inordinate delay of more than 9 years in filing the OA (after expiry of limitation period of one year) cannot be condoned. The MA filed by the applicant in OA No.304 of 2016 for condoning the delay in filing that OA was not allowed and delay was not condoned, and rather the MA was disposed of in view of the order directing the respondents to decide the representation of the applicant. Be that as it may, the fact remains that the instant OA is hopelessly barred by limitation.....”

[4] We have heard learned counsel for the petitioner at a considerable length and gone through the records.

[5] It is an admitted fact that Gauri Shanker who immediately represented after acquittal in the criminal case was not reinstated but freshly engaged as Home Guard Volunteer. The petitioner did not submit any such claim within a reasonable period. He sought his reinstatement in March, 2015 only. It appears that enrollment as Home Guard Volunteer does not amount to appointment on a civil post. Such enrollment does not allow the incumbent with a right to continue or seek reinstatement in the event of

discharge from engagement. Be that as it may, the delay itself is a factor that

has rightly been kept in view while considering the petitioner's claim for fresh engagement.

- [6]No case to interfere with the order under challenge is made out.
- [7]Dismissed.

[SURYA KANT]

JUDGE

May 02, 2017
mohinder

[SUDIP AHLUWALIA]

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No