

CM-1298-LPA-2016 in/and
LPA-625-2016 (O&M)

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HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-1298-LPA-2016 in/and
LPA-625-2016 (O&M)
Date of Decision: January 30, 2017

Ex. ASI Ram Kumar

.....Appellant

Versus

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE HARI PAL VERMA

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|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Naveen Daryal, Advocate
for the appellant.

Mr.R.D.Sharma, DAG, Haryana.

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SURYA KANT, J.

CM-1298-LPA-2016

For the reasons mentioned in the application, the same is
allowed and delay of 48 days in filing the appeal is condoned.

CM stands disposed of.

LPA-625-2016

The appellant assails the order dated 03.12.2015 vide which the
learned Single Judge has dismissed his writ petition on the ground of delay
and laches.

The appellant joined the Police Department as a Constable and

in due course of time he was promoted as Assistant Sub Inspector. He was ordered to be compulsorily retired on 07.04.2010. The appellant filed departmental appeal which was also dismissed on 09.09.2010.

The appellant thereafter filed a 'Mercy Appeal-cum-Petition' on 27.09.2010 (P15). As no decision was conveyed thereupon, hence he filed a review petition on 24.05.2013. Thereafter he served the Authorities with a Legal Notice on 02.07.2015 but finding no response, the instant writ petition was filed which has been dismissed by learned Single Judge on the ground of delay and laches.

Learned Single Judge has viewed that since the order of compulsory retirement was passed on 07.04.2010 and the appeal was dismissed on 09.09.2010, the writ petition filed in the year 2015 was hopelessly delayed.

The aggrieved appellant has filed this *Intra Court Appeal*.

When the appeal came up for hearing on August 16, 2016, the question that arose for consideration was whether the 'Mercy Appeal' said to have been filed by the appellant was maintainable or was it a mere representation seeking mercy without any statutory backup? In this backdrop, learned counsel for the appellant relied upon Rule 14 of the Haryana Civil Services (Punishment and Appeal) Rules 1987, whereunder an aggrieved employee is entitled to submit a 'memorial' to the State Government and/or the Governor of Haryana. It was pointed out that all such memorials are generally nomenclatured as 'Mercy Appeals'. It is on this premise it was contented on behalf of the appellant that the 'Mercy

Appeal-cum-Petition' was maintainable under the Rules.

We have heard learned counsel for the parties and are of the considered view that once a 'Memorial -cum-Mercy Appeal' is surely maintainable under Rule 14 of the Rules *ibid and once filed*, it becomes imperative upon the authorities, to convey at least the brief decision taken thereupon to the aggrieved party.

In this view of the matter, we allow the appeal in part; set aside the order passed by learned Single Judge and dispose of the appellant's writ petition with a direction to the State Government to take up the 'Memorial-cum-Mercy Appeal' filed by the appellant and dispose of the same, if not decided earlier, in accordance with law within a period of four months from the date of receipt of a certified copy of this order.

(SURYA KANT)
JUDGE

January 30, 2017
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(HARI PAL VERMA)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |