

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 15.05.2018****CWP No.12214 of 2016**

Dayanand

...Petitioner

Vs.

The State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: None for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

When the case is called, neither the petitioner nor any one appears on his behalf.

This petition was filed in May, 2016 with the following prayer:

“(a) issuance of writ in the nature of certiorari for quashing the charge-sheet dated 16.03.1989, order dated 14.04.1989 Annexure P-3 passed by respondent No.3 vide which one annual increment with cumulative effect has been stopped of the petitioner, order dated 02.05.1990 passed by respondent No.2 vide which the appeal of the petitioner was rejected vide order dated 02.06.2006 passed by respondent No.1 and to grant all the consequential benefits of service to the petitioner.”

Charge-sheet issued in 1989, which has culminated in the rejection of appeal on 02.05.1990 and representation on 02.06.2006, will not be open to be entertained after about 10 years of the accrual of the last cause

of action. The order dated 02.06.2006 was in compliance of the directions issued by this Court in CWP No.3769 of 2006 on 09.03.2006. The writ petition was decided ex parte without hearing the State with a direction to the respondents to decide the representation dated 15.12.2005 by passing a speaking order as per law. In the order dated 02.06.2006 passed by the Financial Commissioner and Principal Secretary, Haryana Government, Jail Department, it has been recorded that the appeal against the punishment order was rejected by the Director General of Police (Prisons), Haryana vide order dated 01.05.1990 after considering the points raised by the petitioner.

Ms. Shruti Jain Goyal, learned Law Officer draws attention to the concluding part of the order wherein it has been recorded that the first appeal to the Director General of Police (Prisons), Haryana was dismissed on 01.05.1990 against which appeal lies with the Government, which was to be filed within a period of three months, but the appellant filed the appeal on 15.12.2005 i.e. after 15½ years, which is time barred. Not only was the appeal filed belatedly, but the present writ petition has been filed after 10 years of the last cause of action.

In view of the above circumstances, this petition suffers from delay and unexplained laches and deserves to be dismissed for these reasons. Even if a suit was brought against any of the orders impugned in this petition, the suit will be barred by limitation. If the suit is barred by time, then it would ordinarily be prudent for the writ court not to interfere in the discretionary writ jurisdiction. For this *see*: State of Madhya Pradesh Vs. Bhailal Bhai & others, AIR 1964 SC 1006: 1964 SCR (6) 261.

Still further, as far as delay is concerned, the matter is also broadly covered by the ratio of State of Punjab & others Vs. Gurdev Singh

& Ashok Kumar, AIR 1992 SC 111, Supreme Court explaining that residuary Article 113 of the Limitation Act applies to such cases where the approach to court is inordinately delayed from the first occasion of the right to sue.

Consequently, I find no merit in the petition and would dismiss the same.

15.05.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>