

**144 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.21256 of 2018(O&M)

Date of decision : 24.08.2018

Radhey Shyam Ex-Constable No.891/GGN

..... Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MS. JUSTICE RITU BAHRI

Present: Dr.S.K.Redhu, Advocate for the petitioner.

RITU BAHRI, J. (ORAL)

The petitioner was recruited as a Constable on 02.12.1988. His date of birth is 10.08.1969. While being posted in Police Line, Gurgaon, he remained absent from duty on 26.08.2001 and in this regard a rapat No. 25 was recorded. He reported back on 12.12.2001 meaning thereby he remained absent for a period of 109 days on the pretext that he was under the influence of bad spirit and was taking treatment from some Ojha/Saint/Hakim. His condition again became worse for which he had to take treatment from said Ojha/Saint/Hakim again. A departmental inquiry was held but the Enquiry Officer did not allow him to join the same and the said proceedings were decided ex parte and a report in this regard was submitted on 01.03.2003 holding him guilty of charges of his alleged absence from duty w.e.f. 26.01.2001 to 12.12.2001 and 29.05.2002 to 01.03.2003 i.e. for a total period of 385 days. He was awarded punishment of dismissal from service

vide order dated 21.05.2003 against which he filed an appeal but the same was rejected by the Appellate Authority. As his mental condition was not good, he filed a mercy petition before the Director General of Police, Haryana but the same was also rejected vide order dated 17.06.2015.

Learned counsel for the petitioner has referred to the judgments passed by this Court in **LPA No. 1234 of 2015** decided on 17.10.2016, **Jaggi Ram v. State of Haryana and others (Annexure P-7)** and **LPA No. 695 of 2016** decided on 22.02.2018, **Yograj v. State of Haryana and others (Annexure P-9)**. Both these letter patent appeals had arisen out of dismissal of writ petitions wherein the petitioners had challenged their respective orders dismissing them from service on the ground of their absence from duty, without taking into consideration their total length of service. LPA No.1234 of 2015 was decided partly setting aside the impugned order whereas LPA No. 695 of 2016 was disposed of granting liberty to the appellant therein to make a representation to the competent authority for imposition of punishment other than that of dismissal. In both these cases absence was for a period of 139 and 515 days respectively.

In the present case the petitioner has been dismissed from service after he served for 15 years i.e. from 1988 till the date of termination i.e. 21.05.2003 for being absent for a period of 385 days vide order dated 09.12.2003 (Annexure P-4). The revision filed by him before the Director General of Police was dismissed on 17.06.2015. However, the present writ petition was filed on 10.08.2018 i.e. after a period of more than three years. The delay in filing the writ petition after more than years has not been explained by the petitioner. Even the limitation for filing a civil suit challenging an impugned order is for three years. The petitioner has

approached this Court after three years and hence this petition being barred by delay and latches, is dismissed.

(RITU BAHRI)
JUDGE

24.08.2018
sunita

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