

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 7948 of 2018

Date of Decision: 01.05.2018

Rajender Kumar

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sandeep Jasuja, Advocate for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

1. The limitation provided under Rule 16.30 (2) of the Punjab Police Rules, 1934 as applicable to the State of Haryana against adverse penalty order in one month from the date of receiving of certified copy of order. The statutory appeal against the punishment order dated 30.04.2007 withholding one future annual income temporarily of the petitioner failed before the Inspector General of Police, South Range, Rewari who declined the appeal as time barred vide order dated 26.09.2014. Moreover, sufficient cause was not shown in the grounds of appeal explaining the reasons for the delay. The petitioner accepted that order by succumbing to it for far too long till he filed a service appeal in September 2014 with a delay of 07 years and 02 months. Even thereafter, the petitioner was satisfied with the order and now has woken up after over three and a half years. The present petition has been filed on the ground that one of the five co-accused, namely, Vijender Singh has been handed down a favorable order by the

authorities in the Police Department absolving him from the charges of misconduct in the same incident, and therefore, similar treatment should be given to the petitioner. There was no delay in Vijender Singh's case, who approached the authority well in time aggrieved by the penalty order. I would hardly find a proper justification in the case papers to accept this contention based only on the outcome of co-accused appeal as a valid one. Firstly, because of lack of any explanation to aggregate this case with the other to achieve the same result, especially after passage of time and; Secondly, the delay and laches have not been explained or justified in seeking administrative redress on the grievance within a reasonable time, and, accordingly, the vice of laches have set in by negligence of the petitioner in invoking statutory remedy available to him in Rule 16.30 (2) of the rules till Vijender Singh obtained relief absolving him of misconduct. Parity of treatment ought not to be accorded to the petitioner in the facts. No material has been placed on record to take a different view. The impugned order inflicts only minor punishment.

2. In State of Madhya Pradesh Vs. Bhailal Bhai, AIR 1964 SC 1006 (CB), the Supreme Court explained that if the limitation for filing suit on the same cause of action has expired, then it will be prudent for the writ Court not to interfere in exercise of its extraordinary writ jurisdiction to circumvent limitation. The Supreme Court observed that three years period prescribed for bringing suit is a reasonable measure

of delay and laches in writ jurisdiction. Article 113 of the Limitation Act, 1963, is designed for this purpose in granting an appropriate remedy by prescription of time to bring actions against adverse orders, including the ones passed in service law domain.

3. I find no legal infirmity in the impugned order dated 26.09.2014 dismissing the appeal as time barred sufficient to set it aside. Besides, the rights claimed by the petitioner are personal to him against the adverse order passed in the year 2007 and which are not fundamental in nature, and, therefore they could be waived by inordinate inaction and slumber and acquiescence.

4. For these reasons, I would not entertain this petition, and, would dismiss it at the threshold since the order warrants no interference. The view taken is one which is possible, plausible and legally correct in the facts and circumstances.

(RAJIV NARAIN RAINA)
JUDGE

01.05.2018

kv

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