IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9606 of 2018
Date of Decision: 20.04.2018

Ram Partap-Patwari

...Petitioner

Vs.

State of Haryana and others

...Respondents

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

Present: Mr. P.K. Ganga, Advocate
for the petitioner.

RAJIV NARAIN RAINA, J. *(Oral)*

1. The petitioner was dismissed from service after an enquiry on the charge of major misconduct by an order dated 24.04.2001. The petitioner was held guilty of creating fake revenue record while working as a Patwari. In appeal he was reinstated and the punishment was converted from dismissal to withholding of four future increments with cumulative effect. This was with effect from 08.05.2001. The reasons for dismissal also constituted a criminal complaint by the Collector setting the criminal law into motion.

2. The trial Court convicted the petitioner of the charges on 14.11.2009. The petitioner did not stir a leaf, kept silent, and made a representation in the year 2016 for release of annual grade increments for period 24.07.2001 to 08.05.2002. He has challenged the order dated 08.05.2002 for the first time in this petition filed in the year 2018. The cause of action accrued to the petitioner on 08.05.2002 but he did not

seek legal redress on even submit a memorial to the Department nor did he file an appeal against the order dated 08.05.2002 before the higher authorities i.e. The Commissioner and the State Government.

3. For the first time, a representation was made in the year 2016 which has been declined and the revision petition dated 25.05.2016 against the order has been dismissed as time barred vide order dated 09.02.2018 passed by the Additional Chief Secretary and Financial Commissioner Revenue and Disaster Management Department.

4. It is argued by the learned counsel for the petitioner that the cause of action is recurring and has the effect of reducing the pay of the petitioner every month. If the petitioner was reinstated on 08.05.2002 by converting dismissal into lesser major punishment of withholding of four increment with cumulative effect, even so, I see no reason why the claim of the petitioner can be accepted on merits at this distance of time. In case a suit was filed on the same cause of action, it will be time barred which position has been explained by the Supreme Court in State of Madhya Pradesh Vs. BhaiLal Bhai, AIR 1964 S.C. 1006 (CB) holding that where the limitation for filing suit has expired it would be prudent for the writ Court not to interfere in its extraordinary and discretionary jurisdiction.

5. For these reasons, I find no scope in law to interfere in the matter to set aside the order which ex-facie contains no error apparent.

Merely because it is a one line order does not mean that it is cryptic or laconic when it records dismissal of the claim as time barred'. The short order holds full and sufficient meaning on limitation without saying anything further since facts support the conclusion. I would thus uphold that order. Annual increments claimed have merged in the punishment order, and therefore, no relief can come to the petitioner unless the order dated 08.05.2002 is set aside.

6. The order dated 08.05.2002 cannot be set aside in the year 2018 as the law is clear on Article 113 of the Limitation Act, 1963 in the judgment of the Supreme Court in State of Punjab & Others Vs. Gurdev Singh, AIR 1991 SC 2219 although the case dealt with a dismissal order, but the principle applies. Delay defeats equity by waiver of right to sue and long acquiescence to a state of things left undisturbed. The remedy, if any, stands extinguished by efflux of time.

7. Dismissed.

(RAJIV NARAIN RAINA)
JUDGE

20.04.2018
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Whether speaking/reasoned : Yes
Whether reportable : No