

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

CWP No. 109 of 2019

Date of decision : 09.01.2019

Surjit Singh

...Petitioner

V/s

State of Punjab & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. R.S. Bajaj, Advocate for the petitioner.

RAJAN GUPTA J.

Petitioner has challenged the impugned order dated 29.08.2011 passed by respondent no. 2 whereby appeal against his dismissal from service has been rejected. Mr. Bajaj, learned counsel for the petitioner has urged before the court that petitioner was convicted by the trial court under section 304 Part-1 of the IPC and sentenced to undergo imprisonment for a period of seven years. In appeal, this court took lenient view and reduced the sentence to already undergone and enhanced the fine to ₹1,50,000/- to be paid as compensation to the complainant. According to him, as death of the deceased was due to sudden altercation, a lenient view ought to be taken by the departmental authorities as well.

I am not convinced with the plea. A perusal of the record shows that petitioner was armed with a knife and gave a blow to the deceased in the chest from the left side. As a result, Constable Rajiv Kumar succumbed to this fatal injury. Petitioner was charged under section 302 IPC. However, trial court convicted him under section 304 Part-I of the IPC.

He preferred appeal before this court. This court observed that lenient view

could not be taken, however, sentence was reduced to that of already undergone. Petitioner was dismissed on the basis of conviction way-back in the year 1996. He preferred appeal in the year 2010 which was rejected vide order dated 21.01.2011. In my considered view plea of the petitioner for quashing the impugned order by way of writ of certiorari is misconceived. Apart from the fact that petitioner committed a serious offence, present petition suffers from serious laches. It cannot be lost sight that petitioner preferred an appeal before the departmental authority only after the decision of the criminal appeal by this court.

Under the circumstances, no case for interference is made out.

Dismissed.

January 09, 2019

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No