

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

**Civil Writ Petition No.18594 of 2017
Decided on : 22.04.2019**

Ram Narain

... Petitioner

Versus

Union of India and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Parmod Parmar, Advocate
for the petitioner.

Mr. H.S. Baidwan, Advocate
for the respondents.

G.S. Sandhawalialia, J. (Oral)

In the present writ petition filed under Article 226/227 of the Constitution of India, the petitioner seeks issuance of a writ in the nature of mandamus directing the respondents to consider/decide the legal notice dated 07.04.2013 (Annexure P-2) and claims his terminal dues which have not been accepted.

A perusal of the writ petition would go on to show that a legal notice as such was served upon the respondents on 07.04.2013 (Annexure P-2), whereby it was categorically mentioned that the petitioner was dismissed from service on 05.06.1991. The respondents thereafter also had communicated the said fact to the petitioner in September, 2013 regarding the dismissal and the fact that a judicial trial has been conducted for the offence committed by him under Section 10 (m) & 10 (p) of CRPF Act, 1949, whereby he had been sentenced for 5 days rigorous imprisonment from 06.06.1991 to 10.06.1991 in 97 Bn Quarter Guard.

The petitioner was, accordingly, informed that the terminal dues of ₹2,379/- on account of Risk Fund was paid to him on 13.03.1992 and a set of blank GPF/GIS final payment documents had been sent for making final payment of GPF/GIS/Leave Encashment

In the written statement filed, it is mentioned that GPF final payment has already been made in September, 1991, as per Annexure R-1. The dismissal order dated 05.06.1991 as such has been annexed as Annexure R-3, which was passed by the Commandant. The petition has, thus, been opposed on account of delay in as much as the petition has been filed after 27 years.

The prayer, thus, for payment of retiral dues as such cannot be considered, once there was a dismissal, which was never challenged by the petitioner within the prescribed period. Even otherwise the order as such of the Commandant would have to be challenged before the competent authorities, which was not done and, therefore, writ jurisdiction cannot be invoked, whereby the prayer for retiral benefits and decision is being made without raising any challenge to the termination order itself.

Under Rule 28 (a) of The Central Reserve Police Force Rules/Regulations/Scheme, 1955 an appeal would lie before the Deputy Inspector General if the original order was passed by the Commandant. Under Rule 28 (e) the appeal is to be filed within 30 days exclusive of the time taken to obtain a copy of the order and the Appellate Authority has the power to entertain a time barred appeal if it deemed fit. Thus, an

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appeal would lie before the Deputy Inspector General as per the abovesaid rules.

The petitioner has chosen to sleep over his rights and remedies and the question of opening up the issues at this stage after a period of almost 2½ decades would not arise, as the petitioner himself was negligent in pursuing his remedies which are prescribed under the relevant rules. Accordingly, there is no merit in the present writ petition and the same is, hereby, dismissed.

APRIL 22, 2019
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No