

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

(202)

**RA-CW-342-2016 (O&M) in
CWP-26699-2015
Decided on : 26.03.2019**

Ranjit Singh

... Review applicant/ Petitioner

Versus

The State of Punjab and others

... Respondents

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

Present : Mr. Jagdish Manchanda, Advocate
for the review-applicant/petitioner.

Ms. Simran Grewal, AAG, Punjab.

G.S. Sandhawalialia, J. (Oral)

CM-13619-CWP-2016

Application for review of the order dated 14.01.2016 alongwith
an application for condonation of delay of 251 days in filing the review
application has been filed.

Keeping in view the averments made in the application, duly
supported by affidavit, the application for condonation of delay is allowed.
The delay of 251 days in filing the review application is condoned.

CM stands disposed of.

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The review of the order is sought on the ground that an appeal
dated 04.04.1987 (Annexure A-1) was pending before the Chief Engineer,
which had not been decided and, therefore, the prayer for decision of the
said appeal was justified in the writ petition.

The pendency of the appeal has been denied by the State in the

reply filed. It has been averred that the applicant has concocted a false story that the applicant had searched the documents and, therefore, the question of the disposing of the same does not arise. It has further been averred that when he had filed the appeal he would not have kept silent over the same for such a long time.

The writ petition was dismissed primarily on the ground that an appeal would lie under Rule 16 of the Punjab Civil Services (Punishment & Appeals) Rules, 1970 to a Higher Authority and the appeal which had been dismissed on 30.03.1987 was addressed to the same officer, the Superintending Engineer, who had passed the dismissal order. The dismissal on 26.03.1987 (Annexure P-1) was on account of the fact that an FIR had been lodged on 03.03.1987 and the departmental inquiry having been conducted, on the basis of which the dismissal order was passed. In such circumstances, the writ petition was dismissed that the petitioner had never objected to the dismissal order in the year 1987 by filing appeal and the departmental proceedings had become final. Merely, on account of acquittal on 16.08.2010, which has been further upheld by the Session Judge on 05.07.2012, he could not start raking up the issues of being put back in service or for the retiral benefits, since admittedly he has superannuated on 30.09.2005.

Nothing had been brought on record to show that between the alleged period of appeal, which is now stated to have been attached as Annexure A-1 in review application, the petitioner communicated with the respondents for decision of his appeal. The same further substantiates

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the stand of the State that no appeal had been preferred by him at that point of time and he was satisfied and had accepted the order of dismissal. Had any appeal been filed at that point of time, necessary correspondence or effort would have been made to set aside the order of dismissal. Merely because on a subsequent point of time there is an acquittal, the issue of the appeal was raked up for the first time in the legal notice dated 22.07.2015 (Annexure P-8). The present review application was also entertained while noting on 27.10.2016 that if it is found that the appeal has been decided or this fact had been concealed, the petitioner will be liable to pay costs of ₹1 lakh. Necessary affidavit had also been filed that the deponent had filed the appeal before the Higher Authority.

However, since the appellant is out of service and on account of dismissal from service, this Court does not propose to impose another huge financial liability upon him and, thus, abstains from imposing the said costs, in view of the categorical stand taken by the State.

Resultantly, no fault can be found in the order which is sought to be reviewed in the present facts and circumstances as there is no error apparent on the face of the record and the same does not fall within the ambit of the provisions of review jurisdiction.

Accordingly, the review application is dismissed.

MARCH 26, 2019

Naveen

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No