

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

**CWP No.21118 of 2019 (O&M)
Date of Decision:10.02.2020**

Jatinder Pal Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Brijesh Nandan, Advocate for the petitioner.

TEJINDER SINGH DHINDSA J.(Oral)

Challenge in the instant petition is to the action of the respondent authorities whereby petitioner who was serving on the post of Constable under the Police Department, State of Punjab was imposed extreme penalty of termination from service.

Having heard learned counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that the validity of the action of termination of service of the petitioner need not be gone into on merits.

The uncontroverted factual premise is that the petitioner had joined as Constable in the year 1999. His services were terminated on 05.07.2004. Petitioner having filed an appeal, the same was dismissed by the Appellate Authority on 30.03.2006 (Annexure P-1). Even the revision filed by the petitioner was rejected by the Revisional Authority on 27.01.2009 (Annexure P-2).

Instant writ petition was preferred in the year 2019. Counsel for

the petitioner would make an attempt to overcome delay by submitting that the petitioner after passing of the order dated 27.01.2009 by the Revisional Authority had approached the State Government, Department of Home and Justice, Punjab and such mercy appeal was rejected vide order carrying endorsement dated 27.08.2018 (Annexure P-4). It is urged that viewed against the backdrop of rejection of the mercy appeal of the petitioner in the year 2018 at Annexure P-4, there is no delay on the part of the petitioner in having approached the writ Court. On a specific query having been put to counsel, it stands conceded that against an order of termination the statutory remedies available to the petitioner were in the nature of filing an appeal and a revision. Admittedly the appeal preferred by the petitioner was rejected by the Appellate Authority on 30.03.2006 (Annexure P-1). Furthermore the revision filed by the petitioner was dismissed on 27.01.2009 (Annexure P-2).

The mercy appeal that the petitioner had thereafter preferred before the State Government was not towards exhausting any statutory remedy available to the petitioner.

It is by now well settled that repeated representations/appeals would not furnish a fresh cause of action. Reference in this regard may be made to the judgment of the Hon'ble Supreme Court of India in the case of ***S.S. Rathore Vs. State of Madhya Pradesh, AIR 1990 S.C. 10.***

In the case of ***Baljinder Pal Kaur Vs. State of Punjab & Others, 2008(4) S.C.T. 213*** a Division Bench of this Court considered the issue of delay in a situation wherein after exhausting the statutory remedies of appeal and revision, the employee having preferred a mercy petition and the same also having been dealt with by passing an order and it was held

that cause of action would be taken to accrue from the date of passing of final order or from the date when an appeal or revision provided under law is disposed of. It was further held that in the absence of any statutory provision providing for the filing of a mercy petition, delay could not be overlooked merely on account of an order having been passed on such appeal as it was the employee himself, who had invited such order.

Adverting back to the facts of the present case, the grievance, if any, arose to the petitioner in the year 2004 when his services were terminated. Petitioner had availed of his statutory remedies in terms of filing an appeal and thereafter a revision. Even such statutory remedies stood exhausted in the year 2009.

Instant petition has been seen in the light of delay in the year 2019.

There is an inordinate delay of 10 years in having approached the writ Court.

Writ petition is highly belated and is dismissed on the ground of delay and laches.

Dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

February 10, 2020

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No