

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

120

CWP-4190-2021

Decided on : 23.02.2021

Darshan Singh

... Petitioner

Versus

State of Punjab & another

... Respondents

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

Present: Mr.Rajinder Goyal, Advocate, for the petitioner.

Ms.S.G.Randhawa, AAG, Punjab.

(The proceedings are being conducted through video conferencing,
as per instructions.)

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India is to the order dated 20.06.2012 (Anneuxre P-1) and the order dated 26.11.2020 (Annexure P-5) whereby respondent No.2 has upheld his previous order dated 20.06.2012 and maintained the dismissal order of the petitioner, which was passed on the ground that there was a conviction by the Court and therefore, in view of Rule 5(ix) of the Punjab Civil Services (Punishment & Appeal) Rules, 1970, the said order had been passed.

On account of the petitioner having been released on probation in CRR-1278-2014 on 22.10.2019, he revived his cause of action for grant of pensionary benefits. On directions issued by this Court in CWP-5713-2020 on 14.09.2020 (Annexure P-4) for deciding the representation, the present order has been passed by respondent No.2, maintaining the earlier order.

Once the basic order has been passed under the 1970 Rules, there is an alternative remedy available to the petitioner as the said provisions provide a remedy of appeal under Rule 15 which provides that against an order

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120

CWP-4190-2021

-2-

imposing any penalty specified in Rule 5. An appeal is provided against the same under Rule 16 before the Appellate Authorities under the 1970 Rules. However, there is a limitation period prescribed of 45 days from the date on which copy of the order is delivered under Rule 17. The same reads as under:

“17. Period of limitation of appeal- No appeal preferred under this part shall be entertained unless such appeal is preferred within a period of forty- five days form the date on which a copy of order appealed is delivery to the appellant;

Provided that the appellate authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.”

Notice of motion.

Ms.Randhawa accepts notice on behalf of the State.

Accordingly, keeping in view the above, this Court is of the opinion that if the petitioner files an appeal before the concerned Appellate Authority, within a period of 15 days from today, in view of the subsequent orders passed on 26.11.2020, the said authority shall decide the same on merits, without being influenced by the intervening delay, in view of the prevailing COVID-2019 restrictions.

FEBRUARY 23, 2021

sailesh

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

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No