

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 1917 of 2022

Date of Decision: 03.02.2022

Amandeep Singh

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sandeep Bansal, Advocate
for the petitioner(s).

Mr. Ayush Sarna, Assistant Advocate General,
Punjab, for the respondents.

Anil Kshetarpal, J.

1. The petitioner prays for issuance of a writ in the nature of certiorari to quash the orders dated 19.08.2016, 18.02.2021 and 30.06.2021.

Some facts are required to be noticed.

2. The petitioner was enrolled as a Constable in 27 Battalion of the Punjab Armed Police on 21.09.2004. He absented himself from the duty w.e.f. 01.04.2016. Despite various notices sent to the petitioner to report back, he did not choose to join the services. Ultimately, the appointing authority initiated the departmental inquiry. The notices were sent to the petitioner, but he never came forward to join the inquiry proceedings. Hence, he was proceeded against *ex parte*. An *ex parte* report against the petitioner was submitted to the appointing authority. The appointing authority sent various show cause notices to the petitioner, which were personally served

upon him. The appointing authority, vide an order dated 19.08.2016,

dismissed the petitioner from service.

3. The petitioner, after a period of more than four years, filed an appeal before the respondent No.3-Deputy Inspector General of Police, Punjab Armed Police, Jalandhar Cantonment, Jalandhar, under Rule 16.32, Chapter XVI of the Punjab Police Rules, 1934 (hereinafter referred to as “the 1934 Rules”). The delay in filing the appeal was explained in the following manner:-

“29. That the instant appeal is being filed after considerable time has elapsed. However, since the appellant was unable to think of his good and bad and is still mentally unsound to a great extent, thus the delay. Otherwise also, the action of authorities is a continuing wrong against him which gave rise to a recurring cause of action each time he was denied his entitled service and consequential pension on non-existing grounds which were de hors the Records. The claim of the applicant is a service related claim and is based on a continuing wrong. Thus relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, as this continuing wrong created a continuing source of injury.

30. That it is the submission of the appellant that the above said delay in pursuing the appeal is neither intentional nor deliberate and is bona fide. If the instant filed by the appellant is not entertained for the reasons of the delay

in pursuing the said case, then irreparable loss and injury shall be caused to the appellant”.

4. The Appellate Authority found that the petitioner has filed the appeal after the lapse of four years and one month. Hence, the appeal was dismissed being barred by time. The petitioner filed the revision petition before the Special Director General, State Armed Police, Jalandhar, which was also dismissed vide an order dated 30.06.2021. That is how the petitioner has invoked the extraordinary jurisdiction of this Court.

5. This Court has gone through the reasons stated for the petitioner's absence. He claims that due to marital discord with his first and second wife, he went into depression, therefore, he did not file any appeal. In support thereof, the petitioner has annexed certain slips issued by the private doctor.

6. The marital discord is a part of normal wear and tear of a married life. The petitioner was the member of a disciplined force. He remained absent from his duty continuously from 01.04.2016. He never intimated the reasons for his absence to his superiors. He did not even bother to respond to various show cause notices sent either for reporting back on duty or to join the departmental proceedings. After the receipt of the report from the inquiry officer, various show causes notices were issued to the petitioner by the authority. However, the petitioner, after having been personally served with the notices, did not opt to respond to the show cause notices. Further, he never assailed the correctness of the order passed by the appointing authority for a period of more than four years. As per the 1934 Rules, the appeal is required to be filed within a period of 30 days.

Undoubtedly, the appellate authority has a power to condone the delay. However, for condonation of such a huge delay of more than four years, the petitioner was required to explain the reasons for colossal delay.

7. From the reading of the reasons stated in para 29 and 30 of the appeal filed by the petitioner, it is crystal clear that the petitioner has failed to make out a case to condone a huge delay of more than four years. Hence, no ground is made out to interfere in exercise of the writ jurisdiction. Consequently, the present writ petition is dismissed.

(Anil Kshetarpal)
Judge

February 03, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No