

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.2123 of 2020 (O&M)
Decided on:09.05.2022

Arvinderbir Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. R.K Arya, Advocate
for the petitioner.

Mr. Pawan Sharda, Sr. DAG, Punjab.

JAISHREE THAKUR J. (ORAL)

C.M. No.12194 of 2021

Application is allowed.

Annexure P-4 is taken on record.

CWP No.2123 of 2020

The petitioner by way of instant petition seeks issuance of a writ in the nature of certiorari for quashing order dated 21.04.1993 passed by respondent No.4 whereby five years' service of the petitioner has been ordered to be forfeited on permanent basis entailing his five future increment with immediate effect. It was further ordered that period of absence of the petitioner from 26.11.1990 to 02.04.1992 shall be treated as non-duty. The petitioner preferred an appeal against the said order, which was dismissed by respondent No.3 on 11.12.1993. The petitioner further appealed to the respondent No.2, who vide order dated 04.07.2019 dismissed the same being time barred.

Learned counsel appearing for the petitioner would contend that the absence of the petitioner from duty for 1 year, 6 months and 12 days was on account of his illness and beyond his control. It is argued that it is settled law that while holding enquiry on the allegation of absence from duty, authorities are bound to take into consideration the fact whether the absence was willful or due to unavoidable circumstances. It is further contended that though the enquiry officer held that as per statements of DW1 and DW2 and opinion of the doctor, absence of the petitioner was justified but since he did not intimate to the department and not followed order of superior officer, charges leveled against the petitioner are proved. The finding rendered by the enquiry officer is not sustainable, being in violation of the settled principle of law. The appellate authority/revisional authority also did not take into account the aforementioned fact and dismissed the appeal/revision preferred against the said in an arbitrary and illegal manner.

Per contra, learned counsel appearing for the respondent-State would submit that the petitioner remained absent from duty from 26.11.1990 to 02.04.1992 without intimation to the department and the punishment has been imposed upon the petitioner after holding an enquiry and providing sufficient opportunity of hearing to the petitioner. It is further contended that even if the petitioner was sick, he could have informed the department, which he failed to do and therefore, such undisciplined conduct of the petitioner cannot be accepted in the police force.

I have heard learned counsel for the parties and have perused the paper book. The petitioner was awarded a punishment of forfeiture of five years of service on permanent basis entailing five future increments with immediate effect vide order dated 21.04.1993 and an appeal was preferred against the said

order, which was dismissed on 11.12.1993. However, the petitioner preferred a appeal/revision against the order dated 11.12.1993 in the year 2019 i.e. after a period of 26 years from the date of order passed by the appellate authority and for the said reason, it was dismissed being time barred. The petitioner has approached this Court in January, 2020 challenging the order passed in 1993 and therefore, there is delay and latches on the part of the petitioner and the prayer sought by the petitioner in the instant petition cannot be entertained.

The instant petition is dismissed on the ground of delay and latches.

(JAISHREE THAKUR)
JUDGE

May 09, 2022
Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No