

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 20363 of 2021 (O&M)
Date of Decision: 2.8.2022

Prithipal Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Puneet Kumar Bansal, Advocate
for the petitioner.

JAISHREE THAKUR, J.

1. The petitioner herein has approached this Court under Article 226 of the Constitution of India for setting aside the impugned order dated 16.12.1997, whereby he was dismissed from service.
2. In brief, the facts are that the petitioner was appointed as Constable vide order dated 7.2.1992. FIR No. 27 dated 5.4.1994 was registered against the petitioner at Police Station Cantt Ferozepur and after trial, he was convicted under Sections 420, 468 and 471 IPC by the judgment dated 15.9.1997 and the appeal filed against the conviction too was dismissed. Based on the conviction, the petitioner was dismissed from service vide impugned order dated 16.12.1997. Against the order of dismissal, the petitioner preferred a statutory appeal, however, no decision was taken thereon. As no decision was taken on the said appeal, the petitioner submitted a reminder dated 3.2.2020, but did not receive any response thereof. Thereafter, the petitioner sent a legal notice dated

13.5.2020 but of no avail.

3. Learned counsel appearing on behalf of the petitioner would contend that the order of dismissal as passed against the petitioner is not sustainable as there is no adequate reason given therein. It is submitted that an opportunity of hearing ought to have been given to the petitioner before order of punishment imposed upon him. It is submitted that conviction cannot per se be the ground for dismissal.

4. I have heard learned counsel for the petitioner and find that there is no merit in the writ petition.

5. It is an admitted fact that the petitioner herein was convicted in FIR No. 27 dated 5.4.1994 and he was sentenced to undergo substantive sentence for a period of two years and to pay fine also by the Court of Judicial Magistrate Ist Class, Ferozepur, vide his judgment dated 15.9.1997. The respondents, by invoking Rule 16.2 of the Punjab Police Rules, 1934, dismissed the petitioner from service. There is nothing on the record to establish that the petitioner chose to file an appeal against the said order of dismissal and there is only an averment to that effect. No grounds of appeal have been annexed with the instant petition. The remedy against the said order of dismissal would have been for the petitioner to file a statutory appeal. Even otherwise, the petitioner has relied upon a letter dated 3rd February, 2020 addressed to the Deputy Inspector General of Police, Ferozepur Range, Ferozepur, as a reminder to decide the appeal and thereafter sent a legal notice after a period of three months on 13.5.2020. The plea of the petitioner herein that he could not have been dismissed from service without giving him an opportunity of hearing would not lie in the

face of the provision of Rule 16.2 (2) of the Punjab Police Rules, 1934, which clearly envisages that if the conduct of an enrolled police officer leads to his conviction on a criminal charge and he is sentenced to imprisonment, he shall be dismissed. There is no ambiguity in the wording of Sub-rule (2) of Rule 16.2 of the Punjab Police Rules, 1934. The petitioner has not been able to establish that he had preferred an appeal against the order of dismissal and therefore, it can be safely assumed that no such appeal was ever filed. The documents available on the record are a reminder and a legal notice which have been issued in the year March/May, 2020 and that too without affixing any postal receipts evidencing that the same were sent. The petitioner has approached this Court after about 25 years from the date he was dismissed from service. There is no justifiable reason for the gross delay and laches in filing the writ petition.

7. Consequently, the writ petition is dismissed.

2.8.2022
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No