

103.

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

CWP-13791-2021

Date of Decision: 08.09.2022

BHAGAT BHUPINDER SINGH

.... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. B.S. Bali, Advocate, for the petitioner.

JAISHREE THAKUR.J (Oral)

This is a petition that has been filed for issuance of a writ in the nature of certiorari for quashing dismissal order dated 18.12.2000, Annexure P-6, and subsequent orders dated 30.11.2004, 12.07.2019, Annexures P-11 & P-15 passed by the respondents.

The brief facts, as pleaded, are that the petitioner joined as Constable in Punjab Police in the year 1994. In January 2000, on account of suffering from viral hepatitis along with jaundice, he remained under treatment and was advised complete rest by the doctors. He informed the office in this respect. On being declared fit, he joined his duties on 06.06.2000 at PAP, Phillaur. However, he came to know that departmental enquiry has been initiated against him. He was issued show cause notice to which he filed reply. He again fell ill on 06.10.2000 and remained under treatment upto 14.12.2000. He was declared fit on 15.12.2000 by the doctor and accordingly, he joined his duties. Again on 17.12.2000, he went under treatment on account of depression. It is contended that without considering

his medical record with regard to his illness, the Superintendent of Police -cum-Deputy Director (P), Punjab Police Academy, Phillaur, dismissed him from service vide order dated 18.12.2000, Annexure P-6. It is submitted that due to this harsh punishment of dismissal, the petitioner went under deep depression and took treatment from various doctors. When he came out from depression, he submitted an appeal-cum-mercy petition, Annexure P-7, before the Director General of Police, Punjab, Chandigarh, respondent No.2, against dismissal, which was sent to respondent No.3-Director, Punjab Police Academy, PAP, Phillaur, for disposal. Petitioner also submitted appeal, Annexure P-9, before respondent No.3 on 19.01.2004. However, it was dismissed vide order dated 02.03.2004, Annexure P-10, being barred by limitation. Thereafter, he filed revision petition before respondent No.2, which came to be dismissed vide order dated 30.11.2004, Annexure P-11. He approached respondent No.1-State by filing appeal-cum-mercy petition, Annexure P-12, which was rejected vide order dated 12.01.2006, Annexure P-13. Thereafter, the petitioner submitted representations to the department, but nothing was done. The petitioner again submitted another mercy petition before respondent No.1 on 20.03.2017, Annexure P-14, which again stand rejected, vide order dated 12.07.2019, Annexure P-15, without assigning any reason. It is argued that while passing the impugned orders, his medical record was not considered.

After hearing learned counsel for the petitioner and having gone through the reply filed by the respondents, this Court finds that the petitioner has been negligent enough to take recourse for redressal of this grievance before an appropriate authority.

After his mercy petition was rejected by respondent No.1 on 12.01.2006 vide order Annexure P-13, he sat over the same for years together. Then he again came forward with another mercy petition in 2017 before the same authority which obviously was not maintainable. After dismissal of the said mercy appeal on 12.07.2019, the petitioner approached this Court on 16.07.2021. There is no explanation for such an inordinate delay. The law is well settled that one has to be vigilant regarding his rights. The doctrine of 'Delay or Laches' is an equitable doctrine. It is based on the maxim "Vigilantibus non dormientius aequitas subvenit" which means equity aids the vigilant and not the ones who sleep over their rights. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. It is well settled law that though there is no period prescribed for filing the writ petition under Article 226 of the Constitution of India, yet it should be filed within a reasonable time.

The petition cannot be entertained at this belated stage. Moreover the conduct of the petitioner for remaining absent from duty time and again is not as such which can be ignored.

In view of above, this Court does not find any ground to entertain the instant writ petition. Consequently, the writ petition is dismissed.

(JAISHREE THAKUR)
JUDGE

08.09.2022

sanjeev

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No