

123.

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

CWP-13684-2022

Date of Decision: 01.08.2022

RESHAM SINGH

.... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Dr. Sumati Jund, Advocate,
for the petitioner.

JAISHREE THAKUR.J

This is a petition that has been filed under Articles 226/227 of the Constitution of India seeking a writ in the nature of certiorari for quashing order dated 20.03.2002 Annexure P-4 passed by respondent No.6 whereby the petitioner was dismissed from service, besides an order dated 11.09.2020 Annexure P-13 whereby appeal filed by the petitioner has been filed by respondent No.2. He has also prayed for reinstatement in service with all consequential benefits.

The facts as pleaded by the petitioner, in brief, are that he was appointed as a temporary Constable on 16.07.1996 because his parents and younger sister were unfortunately killed by the terrorists during the militant attacks in the State of Punjab. The petitioner remained absent on four occasions during the period from July 2001 to November, 2001, for a total period of 56 days. An enquiry was initiated against him on the aforesaid

charges and on the basis of report, the Commandant, 27th Battalion, P.A.P., Jalandhar Cantt., respondent No.6 herein, vide order dated 20.03.2002, dismissed the petitioner from service. He preferred an appeal before Deputy Inspector General of Police, Administration, P.A.P., Jalandhar Cantt., respondent No.5 herein, who, vide order dated 26.08.2003 Annexure P-5 upheld the order of dismissal.

The petitioner has pleaded that thereafter he filed an appeal before respondent No.4, Inspector General of Police, P.A.P., Jalandhar Cantt., which was rejected on 01.02.2007 and against that order, firstly he filed a revision petition and then an appeal before respondent No.3- Additional Director General of Police, Armed Battalions, but both were rejected vide orders dated 05.07.2008 and 09.01.2009 Annexures P-6 & P-7 respectively. He thereafter approached respondent No.2, Director General of Police, Punjab by filing various appeals, however, the same were filed. He has been approaching respondents No.3 to 5 by way of filing various appeals, however, those also were rejected/filed by the authorities concerned, vide orders dated 21.07.2012 Annexure P-9, 18.10.2012 Annexure P-10 and 27.12.2012 Annexure P-11. It is further pleaded that his appeals were filed/rejected vide orders dated 27.01.2014, 03.04.2014, 21.09.2015, 05.01.2016, 16.02.2016, 03.05.2016, 20.11.2019 and finally on 11.09.2020 Annexure P-13.

Counsel appearing on behalf of the petitioner would submit that since his parents and sister were eliminated by the terrorists and thereafter, his wife also died due to cancer, the petitioner was mentally upset and could not attend his duty diligently. He would argue that harsh punishment of

dismissal from service has been imposed upon him. The impugned orders have been passed in a mechanical manner without proper application of mind. A prayer for reinstatement of the petitioner in service with all consequential benefits is thus made by the counsel for the petitioner.

I have heard learned counsel for the petitioner.

A perusal of the paper book would reveal that petitioner has himself admitted that being unaware about the authority, which was required to be approached to seek his remedy against his dismissal from service, he has been filing appeal, then revision and then again appeals, one after the other, before different authorities and the same were being rejected/filed. As per Rule 16.29 of the Punjab Police Rules, 1934, the petitioner could file statutory appeal against the dismissal order before the Deputy Inspector General of Police, which he properly filed and the same came to be rejected vide order dated 26.08.2003 Annexure P-5. Thereafter, he might have filed a revision petition as per Rule 16.32 of the Punjab Police Rules, 1934 within a month of the date of despatch of appellate order to him, to the authority next above the prescribed appellate authority and may also submit to the same authority a plea of mercy. The petitioner though has pleaded to have filed a revision but no such revision appears to have been preferred by the petitioner within the specified period as there is no document forthcoming from the petitioner's end in this regard. However, order dated 05.07.2008 Annexure P-6, filed by the petitioner would show that the revision filed by the petitioner against the order of dismissal from service had been considered and rejected by the Additional Director General of Police, Armed Battalions, Jalandhar Cantt. This order in the revision of the petitioner came to be passed on

05.07.2008 after about 5 years of dismissal of his first appeal by the Deputy Inspector General of Police, Administration, P.A.P., Jalandhar Cantt. on 26.08.2003. It appears that thereafter petitioner preferred mercy appeal as well before the same authority, though no such mercy appeal/petition is coming forth from the end of the petitioner. Said mercy appeal of the petitioner came to be dismissed being non-maintainable vide order dated 09.01.2009 of the Additional Director General of Police, Armed Battalions, Jalandhar Cantt. Thereafter, the petitioner appears to have filed another appeal against all the aforesaid orders before the Director General of Police, Punjab, though no such appeal is filed on record in the light of instructions No.3551-62/E-2(1), dated 16.04.2009 and No.7604-15/E-1(1), dated 02.09.2009 Annexure P-8. Vide letter dated 21.07.2012 Annexure P-9, a reminder purportedly sent by the petitioner through Commandant 27th Battalion, PAP, Jalandhar Cantt. has been responded to by the Deputy Inspector General of Police, Administration, PAP, Jalandhar Cantt. intimating that the appeal filed by the petitioner against order of his dismissal dated 20.03.2002 had been considered and filed. Again there is no such appeal or reminder coming forth on the record from the end of the petitioner. Another appeal appears to have been filed by the petitioner thereafter before the Inspector General of Police, PAP, Jalandhar Cantt., against order dated 21.07.2012 of the Deputy Inspector General of Police, Administration, PAP, Jalandhar Cantt., which was rejected vide letter dated 18.10.2012 being time barred in view of Rule 16.30(2) of the Punjab Police Rules, 1934. Vide letter dated 27.12.2012 Annexure P-11, another petition filed by the petitioner against the order of his dismissal appears to have been rejected being non-

maintainable without going into merits of the same, though no such petition is coming forth on record from the end of the petitioner. Another appeal purported to have been filed by the petitioner before the DGP, Punjab against his dismissal from service, came to be rejected on 14.01.2014 after due consideration, as conveyed vide letter No.627/E-2(2), dated 27.01.2014 Annexure P-12 , though no such appeal is coming forth on record from the end of the petitioner. A perusal of order dated 11.09.2020 Annexure P-13, would reveal that even after dismissal of appeal of the petitioner by the DGP, Punjab lastly on 14/27.01.2014, petitioner kept on filing further appeals which after consideration were filed on 03.04.2014, 21.09.2015, 05.01.2016, 16.02.2016, 03.05.2016, 20.11.2019 and ultimately one on 11.09.2020. The petitioner has now invoked the jurisdiction of this Court under Articles 226/227 of the Constitution of India, seeking a writ of certiorari to quash only the orders i.e. Annexures P-4 and P-13.

From the act and conduct of the petitioner, it is evident that he failed to proceed to seek his remedy in accordance with the statutory provisions provided under Punjab Police Rules, 1934. (It would be pertinent to note that the petitioner has not appended copies of the appeals filed with this writ petition). He would file appeal to different authorities at his whims time and again and did not approach the proper forum in time. The delay and latches on his part in approaching this Court cannot be ignored. After dismissal of his mercy petition on 09.01.2009, he was supposed to approach this Court within a reasonable time and delay caused for more than 13 years on his part cannot be brushed aside.

The law is well settled that a litigant is to be vigilant in his own cause and cannot be permitted to espouse his cause beyond a reasonable time. The petitioner has not availed the remedies as available within a reasonable time and therefore, no ground is made out to entertain the instant writ petition.

The writ petition is, accordingly, dismissed.

(JAISHREE THAKUR)
JUDGE

01.08.2022

sanjeev

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No