

114.

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

CWP-19243-2022

Date of Decision: 30.08.2022

BAL KISHAN

.... Petitioner

Versus

STATE OF HARYANA AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Sandeep S. Majithia, Advocate,
for the petitioner.

JAISHREE THAKUR.J

The petitioner herein is seeking a writ in the nature of certiorari for setting aside the order dated 10.09.2007 passed by the Superintendent of Police, Railways Haryana, Ambala Cantt., Annexure P-5; order dated 31.12.2007 passed by the Inspector General of Police, Railways and Technical Services, (H), Mogi Nand, Panchkula, Annexure P-7, and order dated 04.03.2010, Annexure P-9, passed by Director General of Police, Admn., Haryana, Revisional Authority, whereby his revision petition was rejected.

The facts as pleaded, in brief, are that the petitioner joined as Constable in GRP, Ambala on 11.01.1989. While performing *naka* duty, he was found consuming liquor. On the basis of said allegation and presuming that he might be taking money from the passing drivers, an FIR No.0937, dated 04.12.2006, under Sections 7 and 13(1) of the Prevention of

Corruption Act, 1988 and Section 68 of the Excise Act, 1914 was registered against him and co-accused Nand Pal, at Police Station City, Hisar. He was issued show cause notice on 20.08.2007, which was replied on 24.08.2007. The Superintendent of Police, Railways Haryana, Ambala Cantt., punished him with stoppage of annual increments with permanent effect for 5 years, vide order dated 10.09.2007. Against said order, he filed an appeal before the Inspector General of Police, who considering the punishment on the higher side, reduced it to 3 years with permanent effect vide order dated 31.12.2007. Thereafter, he filed revision before the Director General of Police, which was rejected vide order dated 04.03.2010 considering the fact that the appellate authority has already taken a lenient view. Thereafter, he filed mercy petition, which has not been decided till date. Hence, the present petition.

Learned counsel appearing on behalf of the petitioner would argue that no money was recovered from the petitioner, however, he has been charged under the Prevention of Corruption Act. It is on the basis of a bottle of liquor containing an inch of liquor lying near him, that an inference was drawn that he was consuming liquor. In the FIR that was registered against the petitioner, he was honorably acquitted of the charges levelled against him vide judgment dated 12.06.2009. It is contended that when a police officer has been tried and acquitted by a criminal court, he shall not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case.

I have heard learned counsel for the petitioner and have perused the paper book.

Admittedly, on account of involvement of the petitioner in the FIR that was registered against him in the year 2006, he was punished in departmental proceedings with stoppage of 5 annual increments with permanent effect vide order dated 10.09.2007, which punishment, in appeal before the Inspector General of Police, Railways, Panchkula, was reduced to 3 annual increments with permanent effect. Against that order, he filed revision, which was rejected vide order dated 04.03.2010. Thereafter, he filed mercy petition which is annexed with this petition as Annexure P-10, but when it was filed, there is no mention therein. He sat over the matter for 12 years and filed the instant writ petition on 21.08.2022. In case the petitioner was not heard by any authority within a reasonable time, he should have approached the higher authority in time, but he did not opt to do so.

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 petitioner was acquitted of the charges levelled against him vide judgment dated 12.06.2009. He should have approached the higher forum within a reasonable time. The petitioner took 12 years to approach this Court when his revision was dismissed vide order dated 04.03.2010. He

cannot be entertained at this belated stage.

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

30.08.2022

sanjeev

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No