

119.

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

**CWP-26942-2022**

Date of Decision: 24.11.2022

RASHPAL SINGH

.... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.... Respondents

**CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. Ajaivir Singh, Advocate,  
for the petitioner.

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**JAISHREE THAKUR.J**

1. The instant writ petition has been filed under Article 226/227 of the Constitution of India seeking a writ in the nature of certiorari for quashing order dated 03.04.1995, Annexure P-1, whereby he has been discharged from service under Rule 12.21 of the Punjab Police Rules, as well as subsequent orders dated 19.09.1995 and 12.11.1998, Annexures P-2 and P-3 respectively. He has also prayed for his reinstatement in service with all consequential benefits.

2. The facts of the case are that the petitioner was appointed as SPO in Punjab Police in the year 1991 and was later absorbed as Constable on 19.02.1993. However, in January/February, 1995 due to his illness, he could not report for his duty for a period of 26 days. On this account, he was discharged from service vide order dated 03.04.1995 passed by the Senior Superintendent of Police, Jalandhar. Against said order, he preferred appeal

before the Deputy Inspector General of Police, Jalandhar Range, Jalandhar Cantt., which was rejected vide order dated 19.09.1995 on the ground that no appeal lies against the order of discharge under Rule 12.21 of Punjab Police Rules. Petitioner's father also filed a mercy petition before respondent No.1, which was also rejected vide order dated 12.11.1998. Thereafter, in the year 2018, petitioner again filed representation/mercy petition which was also rejected vide order 18.12.2018 considering the fact that since his two appeals filed against the dismissal order have already been rejected, his mercy petition cannot be considered.

3. Learned counsel appearing on behalf of the petitioner argues that during the alleged absence period, petitioner was suffering from severe sciatica pain and he had duly intimated the office and submitted the medical certificates, but while passing the impugned order, the same were not taken into consideration. He would further argue that the order of discharge is a stigmatic order and the same cannot be passed without holding a proper inquiry or affording any opportunity of hearing. The petitioner has been awarded a harsh punishment of discharge from service on the ground of mere absence from duty for just 26 days.

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

5. The grievance of the petitioner is that the discharge order was passed without holding any inquiry or affording any opportunity of hearing as required under Rule 16.24 of Punjab Police Rules. He was discharged vide

order dated 03.04.1995 and against that order, his appeal and mercy petition were also rejected vide orders dated 19.09.1995 and 12.11.1998 respectively. In the year 2018, he again filed a mercy petition (Annexure P-5) which also stood rejected. The petitioner has already availed of the right of appeal, revision and even mercy appeal to the State Government. It appears that the petitioner filed a mercy petition in the year 2018 after a gap of considerable period of 20 years just to approach this Court in writ jurisdiction. He slept over the matter for such a long period and then suddenly woke up and filed mercy petition and that too without giving any explanation to the delay caused. A mere explanation that the petitioner was pursuing the department by filing representations, without there being any documentary evidence therefor, is no ground that can be taken into consideration.

6. 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 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.

7. I do not see any infirmity or illegality in the orders so passed by the respondents. It is now well settled that High Court cannot sit in appeal over the administrative authorities to go into the question of quantum of punishment being awarded. Moreover, the petitioner cannot agitate a stale claim.

8. In view of above, this Court does not find any ground for interference in the writ petition and the same is dismissed.

**(JAISHREE THAKUR)**  
**JUDGE**

**24.11.2022**

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|---------|----------------------------|--------|
| sanjeev | Whether speaking/reasoned: | Yes/No |
|         | Whether Reportable:        | Yes/No |