

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.100 of 2023 (O&M)
Date of Decision: 02.02.2023

Ex Constable Jasbir Singh

... Appellant

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Rishu Mahajan, Advocate,
for the appellant.

ARUN PALLI, J.

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 31.10.2022, vide which the writ petition preferred by the appellant against the order of dismissal from service and subsequent orders, affirming the punishment awarded to him, was dismissed.

Though the factual matrix, the dispute stems from, is elaborately narrated by the learned Single Judge, but, to address the limited issue that arises for consideration, a brief narration of facts shall be expedient.

The appellant was employed as Constable in Punjab Police. For, he remained absent from duty, w.e.f. 26.03.2000 till 12.06.2001, he was dismissed from service on 06.08.2001. An appeal preferred against the said order was also dismissed by the Inspector General of Police, Amritsar, on 17.05.2002. However, in a suit filed by him, the trial court, vide judgment and decree dated 02.09.2004, set aside the order of dismissal and required the department to pass orders afresh. However, he was not granted any

arrears. In an appeal preferred against the said decree, the appellate court, vide judgment and decree dated 01.12.2005, granted the benefit of arrears to the appellant, as well. Regular Second Appeal preferred by the authorities (RSA No. 2516 of 2006), against the said decree, is pending consideration before this Court. And, vide order dated 11.03.2008, payment of back wages and other service benefits, granted by the first appellate court, were stayed. In the meanwhile, pursuant to the decree dated 02.09.2004 (*ibid*), the authorities re-examined the matter and, vide order dated 26.12.2005, passed by the Senior Superintendent of Police, Amritsar, the appellant was dismissed from service. However, Deputy Inspector General of Police, Border Range, Amritsar, accepted his appeal and vide order dated 06.06.2006, punishment of dismissal was reduced to forfeiture of one year of approved service on permanent basis. But, vide order dated 01.12.2006, the Inspector General of Police, Border Zone, Amritsar, revoked the order dated 06.06.2006, and affirmed the order of dismissal of the appellant. Against the said order, the appellant filed a mercy petition, which was dismissed. Whereafter, in the year 2016, the appellant appealed to the Government of Punjab, but, vide order dated 15.05.2019/21.05.2019, the said appeal too was also dismissed. It was in this backdrop, the appellant approached this Court vide a writ petition, which, as indicated above, has since been dismissed, for it suffered from delay and laches.

Learned counsel for the appellant submits that the learned Single Judge seriously erred, as it was observed that although against order dated 01.12.2006 (*ibid*), the appellant purportedly approached the Additional Director General of Police by way of appeal-cum-mercy petition, which was dismissed, however, the paper book was silent as regards the date of dismissal of the said mercy petition. And no such order was made part of the

record either. And accordingly, it was concluded that counsel for the appellant was unable to explain the delay, post passing of the order dated 01.12.2006 till filing the appeal to the Government, in the year 2016. Whereas, he asserts that order dated 15.05.2019/21.05.2019 itself would show that the said appeal/mercy petition was dismissed on 03.02.2009, and it was thereafter, the appellant had appealed to the Government in the year 2016. Therefore, the appellant could not be accused of any delay at his end, so as to deny him the relief prayed for.

We have heard learned counsel for the appellant and perused the record.

Concededly, the appellant was dismissed from service for being absent from duty for a period of 01 year, 02 months and 17 days. As indicated earlier, vide order dated 01.12.2006, the Inspector General of Police, Border Zone, Amritsar, affirmed the order of dismissal. The appellant, thereafter, filed a mercy petition/appeal against his dismissal to the Additional Director General of Police. Which, as pointed out by the learned counsel and as indicated in the order dated 15.5.2019/21.5.2019, was dismissed on 03.02.2009. But, that would not make any decisive difference either, as concededly, the said mercy petition was dismissed on 03.02.2009, and therefore, the appeal filed by the appellant to the Government against the said order in the year 2016, suffered from a gross, inordinate and unexplained delay of seven years. Further, as observed by the learned Single Judge, no such order forms part of the record. Significantly, the analysis of the order dated 15.05.2019/21.05.2019 (*ibid*), passed by the Government, also shows that the appellant failed to furnish any new evidence or any impelling circumstance or clarification that required the authorities to reconsider/reopen the matter. Even during the hearing of this appeal, upon

being pointedly asked, learned counsel for the appellant fairly conceded that there was no explanation on record to justify the delay, post dismissal of the mercy petition on 03.02.2009 till the appellant appealed to the Government in the year 2016.

Even otherwise, upon examining the records, we are of the firm view that the matter does not warrant any interference. It is not the case of the appellant that the order of his dismissal from service was passed without affording him any notice or opportunity of hearing. It is also not his case that the findings of guilt recorded against him by the Enquiry Officer were perverse or contrary to the record. No violation of any statutory rule/provision was alleged either. Rather, on the contrary, order dated 01.12.2006 (*ibid*), shows that at different times, 14 years of service of the appellant had already been forfeited permanently. Likewise, at different times, his total 2038 days' service had been mentioned as non-duty period. Further, he was censured nine times, and 90 days' drill punishment was also awarded to him.

In the wake of the above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

02.02.2023
AK Sharma

Whether speaking / reasoned: YES

Whether Reportable: YES/NO