

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CM-5977-CWP-2023 and
RA-CW-133-2023 in
CWP-26942-2022
Date of Decision:-1.8.2023

Rashpal SinghPetitioner

Versus

State of Punjab and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Pankaj Maini, Advocate for the petitioner.

Mr. Inderpreet Singh Kang, AAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

CM-5977-CWP-2023

There is delay of 89 days in filing the present review application.

In view of the reasons mentioned in the application, the same is allowed and delay of 89 days in filing the present review application is condoned.

RA-CW-133-2023

1. By way of filing the instant application, the applicant/petitioner seeks review of order dated 24.11.2022 passed in CWP-26942-2022.
2. The petitioner, who had been appointed as a 'Constable' in Punjab Police, was discharged from service in exercise of powers under Rule 12.21 of

Punjab Police Rules. Although the petitioner preferred mercy petitions, but the same were rejected vide orders dated 19.9.1995 (Annexure P-2) and 12.11.1998 (Annexure P-3), respectively.

3. Learned counsel for the petitioner submitted that the present case is a case where the authorities concerned dismissed petitioner's appeal vide order dated 19.9.1995 (Annexure P-2), while observing that no appeal is maintainable, whereas the appeal would be duly maintainable in terms of provisions of Rule 16.29 of Punjab Police Rules.
4. The petitioner challenged the aforesaid orders before this Court by way of filing the present Writ Petition i.e. CWP No.26942 of 2022, which was heard and dismissed by a Coordinate Bench of this Court vide order dated 24.11.2022 mainly on grounds of delay and laches, while observing as under:

“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."
5. This Court has considered the aforesaid submissions and has also perused Rule 16.29 of Punjab Police Rules.
6. However, this Court finds that as per Rule 16.29 of Punjab Police Rules, it is only against an order of dismissal that an appeal is maintainable and not against an order of discharge, as in the present case. This Court also finds that subsequently after dismissal of petitioner's mercy petitions in the years 1995 and 1998, the petitioner filed yet another mercy petition in the year 2018, but the same was also dismissed vide order dated 18.12.2018 (Annexure P-6).
7. The instant writ petition was filed after almost 2 decades of the dismissal of his earlier mercy petitions and thus would be hopelessly time barred. Filing yet another mercy petition in the year 2018 would not cover up the delay and laches. The jurisprudential principle of limitation or the requirement to approach the Court within a reasonable period is well founded and in case such like petitions are entertained irrespective of delay, then no order would ever attain finality and sword of damocles would keep on hanging on the rights of all those, who would be affected. Needless to mention, the reinstatement of petitioner, if ordered after about 2 decades, would result in disturbing the rights, which may have vested in several other colleagues of

the petitioner and would lead to unnecessary multiplicity of litigation and that is never the intent of law. The petitioner was required to be vigilant and diligent enough to have sought redressal of his grievances within a reasonable time and by not having done so in time his right virtually stands forfeited. This is precisely what that has been observed in judgment sought to be reviewed.

8.
- This Court does not find any ground to review the order 24.11.2022 passed in CWP-26942-2022. The instant application is sans merit and is hereby dismissed.

1.8.2023
pankaj

(Gurvinder Singh Gill)
Judge

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