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

CWP-19750-2023

Date of Decision:21.09.2023

RAJESH KUMAR (SINCE DECEASED) THROUGH HIS LRS
..... Petitioner

Versus

UNION OF INDIA AND OTHERS Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Ashok Tyagi, Advocate and
Mr. Gaurav Tyagi, Advocate for the petitioner.

Mr. Pankaj Gupta, Senior Panel Counsel
for the respondents- UOI.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226 and 227 of the Constitution of India is seeking setting aside of inquiry report dated 04.11.2003 (Annexure P-2) and order dated 03.12.2003 (Annexure P-3) by which the petitioner was dismissed from service and subsequent orders whereby appeal and revision have been dismissed.

2. Rajesh Kumar on 02.03.1991 was appointed as Constable in CRPF. He was served inquiry report dated 04.11.2003 (Annexure P-2) which was followed by order dated 03.12.2003 whereby he was dismissed from service. Rajesh Kumar filed an appeal before appellate authority alongwith an application seeking condonation of delay of 11 years and 5 months. The appellate authority vide order dated 25.08.2015 dismissed appeal on the ground of delay as well as merits. The aforesaid employee passed away on 19.10.2022. Wife of the deceased preferred revision before revisionary authority which vide order dated 21.02.2023 (Annexure P-10) has dismissed revision on the ground of delay as well as merits.

3.

Learned counsel for the petitioner submits that there was indubitably delay in filing appeal, however, this Court may take lenient view and entertain the petition.
4.

Learned counsel for the respondents submits that there was inexorbitant delay in filing appeal, thus, appeal was dismissed on the ground of delay. The appellate authority could straightway dismiss appeal on the ground of delay, however, the appellate authority had recorded finding on merits besides considering question of delay.
5.

I have heard the arguments of both sides and with the able assistance of learned counsel perused the record.
6.

It is undisputed fact that deceased employee was dismissed from service in 2003. He opted to file appeal before appellate authority after more than 11 years. Petitioner is not claiming some vested right whereas it is a case of dismissal from service. The deceased employee despite being dismissed from service in 2003, at his wisdom, opted to remain silent and filed appeal in 2015. The family members also did not opt to approach appellate authorities, thus, at this belated stage, this Court cannot entertain petition under Article 226 of the Constitution of India because it would amount to condonation of delay which occurred while filing appeal as well as revision.
7.

In the wake of aforesaid facts and findings, the present petition deserves to be dismissed on the ground of delay and laches and accordingly dismissed.

(JAGMOHAN BANSAL)

JUDGE

21.09.2023

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