

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-147-2024
Date of decision : 08.01.2024

Taqdir Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Monit Pal Singh, Advocate and
Mr.Parveen Kumar, Advocate
for the petitioner.

Ms. Rajni Gupta, Addl.A.G. Haryana.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the order dated 24.09.2002 (Annexure P-1) passed by the Superintendent of Police, Panipat whereby the petitioner was awarded the punishment of stoppage of his one annual future increment with permanent effect. Challenge has also been made to the order dated 31.12.2013 (Annexure P-3) passed by the Inspector General of Police, Hisar Range, Hisar, whereby the appeal filed by the petitioner has been dismissed and to the order dated 02.01.2015 (Annexure P-5) passed by the Director General of Police, Haryana whereby the revision petition preferred by the petitioner has been dismissed.

2. Brief facts of the present case are that the petitioner had joined the police department as Constable on 15.04.1992 and on 18.03.2002 the

petitioner was deployed on security of the outer wall of the CM residence Niwas at Chandigarh. Departmental proceedings were initiated against the petitioner on the allegations that the petitioner was found absent from his duty by Inspector Sham Sunder who was Incharge of Platoon Commando, Chandigarh, at 04:15 am on 18.03.2002 and thereafter, ASI Ramesh Chand called the petitioner to explain the reasons for his absence and the petitioner appeared before him without wearing uniform and also misbehaved with him. The said act of the petitioner was found to be of grave misconduct. The due procedure in the enquiry was followed and 9 prosecution witnesses were examined and the petitioner also got examined 3 defence witnesses and vide order dated 01.08.2002 the enquiry officer held the petitioner guilty of the charges levelled against him. The Superintendent of Police, Panipat vide order dated 24.09.2002 partially disagreed with the enquiry officer and held the petitioner guilty of only misbehaviour with the senior officers and observed that the petitioner was not supposed to overact and wear short and vest while appearing before the senior officers and after taking a lenient view, awarded the punishment of stoppage of one annual increment with permanent effect.

3. The petitioner, after a period of more than 11 years, filed an appeal, which was dismissed by the Inspector General of Police, Hisar Range, Hisar, vide order dated 31.12.2013 (Annexure P-3). In the said order, it was observed that the appeal had been filed after more than 11 years and 2 months and there was no cogent reason for condoning the said delay whereas according to Rule 16.30 (2) of the Punjab Police Rules, 1934 as applicable to the State of Haryana, the appeal was required to be filed within a period of 30 days from the date of the receipt of the order dated 24.09.2002 (Annexure P-1). The appeal was thus, dismissed on the ground

of being time barred. Thereafter, the petitioner filed a revision petition, which was also dismissed by the Director General of Police, vide order dated 02.01.2015 (Annexure P-5). A perusal of the said order would show that it was observed by the Director General of Police that the departmental enquiry had been conducted in accordance with the rules and procedure and there is no legal infirmity in the same and that even the revision petition has been filed after a delay of 16 days which is beyond the prescribed period of one month as is mentioned in Rule 16.32 of the Punjab Police Rules. It was observed in the said order that the rejection of the appeal by the appellate authority was on the ground that the same had been filed after a period of 11 years and that the previous service record of the petitioner revealed that he was a habitual absentee. The revision petition was accordingly dismissed on the grounds of being time barred and also being devoid of merit. After more than a period of 9 years of the passing of the said order, the petitioner has filed the present writ petition. A perusal of the averments made in the present writ petition would show that no reason has been given for delay of the said 9 years in approaching this Court.

4. On a pointed query raised by this Court, learned counsel for the petitioner has not been able to give any plausible reason for the delay of 9 years in filing the present writ petition after the passing of the order dated 02.01.2015 (Annexure P-5).

5. This Court has heard learned counsel for the petitioner and has perused the paper book.

6. The present petition has been filed after a period of more than 9 years from the passing of the order dated 02.01.2015. There is no plausible explanation for the said delay. Even the first appeal filed by the petitioner was after a delay of more than 11 years and was rightly dismissed by the

first appellate authority vide order dated 31.12.2013 on the ground of being time barred as the said appeal was required to be filed within a period of 30 days from the date of passing of the order dated 24.09.2002 whereas the same was filed in the year 2013. The revisional authority has also not interfered with the orders dated 24.09.2002 (Annexure P-1) and 31.12.2013 (Annexure P-3). This Court is of the view that the present writ petition deserves to be dismissed on the ground of delay and laches as no plausible explanation has been given for the delay of 9 years in filing the present writ petition after the passing of the order dated 02.01.2015.

7. The Hon'ble Supreme Court has repeatedly held that a petition filed after an unexplained lapse of time should not be entertained and mere filing of repeated representations or even directions to decide said representations would not give rise to a fresh cause of action. Regarding this aspect, reference is made to a judgment passed by the Hon'ble Supreme Court of India in "**Chennai Metropolitan Water Supply and Sewerage Board and others v. T.T. Murali Babu**" reported as **2014(4) SCC 108** in which one of the grounds for setting aside the judgment of the High Court was the fact that the petitioner therein had approached the High Court after a delay of 4 years and it was observed by the Hon'ble Supreme Court that it was the duty of the Court to scrutinize whether such an enormous delay is to be ignored and the Hon'ble Supreme Court came to the conclusion that interference by the High Court after a lapse of 4 years was unjustified and that the writ petition should not have been entertained.

8. The Hon'ble Supreme Court of India in the case "**State of Uttaranchal and another v. Sri Shiv Charan Singh Bhandari and others**" reported as **2013(12) SCC 179** had observed that repeated representations or reply to such representations cannot furnish a fresh cause of action or revive

a stale or dead claim and that the issue of limitation or delay should be considered with reference to the original cause of action and not with reference to the date on which an order was passed in compliance of the Court's directions and neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches.

9. In “*Chairman, U.P. Jal Nigam and Anr. v. Jaswant Singh & Anr.*” reported as **2006(11) SCC 464**, the Hon'ble Supreme Court had rejected the claim of the persons who were guilty of delay and had approached the Courts after some years and had sought to raise the plea that similarly situated persons, who had filed the writ petitions earlier, had been granted the relief.

10. The judgment of the Hon'ble Supreme Court in ***State of Uttaranchal's*** case (supra) has further been referred to in the latest judgment of the Hon'ble Supreme Court passed in ***State of West Bengal Vs. Debabrata Tiwari and Others*** reported as **2023-SCC-Online-SC-219**. The relevant portion of the same is reproduced hereinbelow:-

*“37. Whether the above doctrine of laches which dis-entitled grant of relief to a party by Equity Court of England, could disentitle the grant of relief to a person by the High Court in the exercise of its power under Article 226 of our Constitution came up for consideration before a Constitution Bench of this Court in ***Moon Mills Ltd. v. M. R. Meher, President, Industrial Court, Bombay, AIR 1967 SC 1450.*** In the said case, it was regarded as a principle that dis-entitled a party for grant of relief from a High Court in the exercise of its discretionary power under Article 226 of the Constitution. 38. In ***State of M.P. v. Nandlal Jaiswal, (1986) 4 SCC 566*** this Court restated the principle articulated in earlier pronouncements in the following words:*

“9. ... the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the Petitioner and such delay is not satisfactorily explained, the High

Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this Rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring, in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of thirdparty rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction.

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40. Further, simply because the Respondents-Writ Petitioners submitted their applications to the relevant authority in the year 2005- 2006, it cannot be said that they diligently perused the matter and had not slept over their rights. In this regard, it may be apposite to refer to the decision of this Court in *State of Uttaranchal v. Shiv Charan Singh Bhandari*, (2013) 12 SCC 179, wherein the following observations were made:

"19. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix. Similarly, a mere submission of representation to the competent authority does not arrest time."

11. Keeping in view the above said facts and circumstances and the law laid down in the abovesaid judgments, the present writ petition deserves to be dismissed and is accordingly, dismissed.

(VIKAS BAHL)
JUDGE

January 08, 2024.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No