

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

LPA No.273 of 2023 (O&M)

Date of Decision: 09.01.2024

State of Haryana and others

.....Appellants

versus

Vijay Kumar

.....Respondent

**CORAM: HON’BLE MS.JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON’BLE MR. JUSTICE AMAN CHAUDHARY, JUDGE**

Present : Mr. Deepak Balyan, Addl. Advocate General, Haryana,
for the appellants.

Mr. Karamveer Singh Banyana, Advocate,
for the respondent.

RITU BAHRI, ACTING CHIEF JUSTICE (oral)

1. The appellant-State of Haryana has filed this appeal against the impugned order dated 16.03.2017, passed by the learned Single Judge whereby the writ petition filed by the petitioner (respondent herein) was allowed and the show cause notice dated 18.03.2011 issued to the respondent as well as the punishment order dated 08.06.2011 and the order passed by the Appellate Authority dated 02.02.2015 were set aside. The appellant-State of Haryana has also challenged the impugned order dated 11.5.2022 whereby the review application filed by the State of Haryana for setting aside the order dated 16.03.2017 was dismissed on the ground of limitation.

2. In the present case, the respondent had faced the disciplinary proceedings and the Disciplinary Authority eventually had exonerated of the charges leveled against him on 03.01.2008. Thereafter, after a gap of three years, the Inspector General of Police, while invoking Rule 16.28 of the Punjab

Police Rules, 1934, issued a show cause notice dated 18.03.2011 to the respondent and proposed to impose the punishment of stoppage of five annual increments with permanent effect. Thereafter, the respondent submitted his reply and after examining the same, a penalty of stoppage of two annual future increments with permanent effect was imposed vide order dated 08.06.2011.

3. Learned Single Judge, while referring to Rule 16.28 of the Punjab Police Rules, 1934, has held that since the respondent had been exonerated of the charges leveled against him, there was no question of enhancing the penalty and in this backdrop the show-cause notice dated 18.03.2011 has wrongly been issued without application of mind.

4. Notice of the application filed by the appellant for condonation of delay of 1900 days in filing the appeal has been issued to the respondent and reply whereof has been filed by the respondent and the same is taken on record. It is stated by learned counsel for the respondent that the writ petition filed by the respondent challenging the show cause notice was allowed by the learned Single Judge vide order dated 16.03.2017 and thereafter the respondent has retired from service on 31.12.2022. Since the appellant has retired, no cause of action survives in the present appeal.

5. It is further stated that there is an inordinate delay of 1900 days in filing the present appeal. Apart from this inordinate delay of 1900 days in filing the appeal, the show cause notice dated 18.03.2011 under Rule 16.28 of the Punjab Police Rules was issued to the respondent after a gap of three years of the order dated 03.01.2008 passed by the Disciplinary Authority exonerating him of the charges leveled. Now no cause of action survives in the present appeal and the same stands dismissed. The application for condonation of delay

of 1900 days in filing the appeal is also dismissed. However, the question of law as regards Rule 16.28 *ibid* is kept open.

6. Since the main appeal stands dismissed, pending application(s), if any, shall also stand disposed of.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

09.01.2024
ravinder/ashok

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