



CWP-23202-2024

-1-

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

119

CWP-23202-2024

Date of decision: 12.09.2024

NIRMAL SINGH

....PETITIONER

Vs.

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. A.S. Nirmaan, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

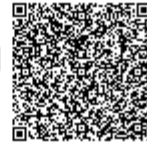
JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of orders dated 14.05.2013 (Annexure P-3), 12.09.2014 (Annexure P-4), 27.02.2015 (Annexure P-5), 22.10.2018 (Annexure P-6) and 25.07.2019 (Annexure P-7) whereby petitioner was dismissed from service and Appellate/Revisionary Authorities upheld his dismissal.

2. The petitioner was dismissed from service on 14.05.2013. He preferred an appeal before Appellate Authority which was dismissed on 12.09.2014. He further preferred revision which was dismissed on 27.02.2015. He opted to remain silent after passing of order in revision. He preferred mercy petition in 2018 before Director General of Police who dismissed his mercy petition vide communication dated 22.10.2018. He thereafter preferred mercy petition before Government which asked him to file appeal before DGP. The said order was passed on 24.07.2019.

3. From the perusal of orders dated 22.10.2018 and 24.07.2019, it is

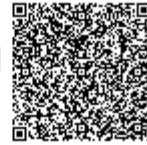
evident that Appellate Authority had dismissed appeal of the petitioner in 2015, still



he continued to file representations before Authorities instead of approaching this Court. There is no provision in Punjab Police Act or Rules made thereunder which permit to file representation after dismissal of appeal.

4. A two Judge Bench of Supreme Court recently in '**Mrinmoy Maity Vs. Chhanda Koley and others**' 2024 SCC OnLine SC 551 has held that High Court ought to dismiss petition on the ground of delay and laches where there is no explanation of delay. An applicant who approaches the Court belatedly or in the other words sleeps over his rights for a consideration period ought not to be granted the extraordinary relief by writ Courts. Delay defeats equity. High Court may refuse to invoke its writ jurisdiction if laxity on the part of applicant has allowed the cause of action to drift away and attempts are made to rekindle the lapsed cause of action. Multiple communications cannot create cause of action. The relevant extracts of the judgment are reproduced as below:

“9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and laches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.



10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straight jacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.

11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and latches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and latches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and latches on the part of the applicant in approaching a writ court.”

5. In any case, the last order was passed on 24.07.2019 and petitioner has preferred present petition after 5 years. There is no plausible explanation for the inordinate delay.



CWP-23202-2024

-4-

6. In the wake of above discussion and findings, this Court is of the considered opinion that present petition deserves to be dismissed on the ground of delay.

12.09.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

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