

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2024:PHHC:041802 –DB

(103)

LPA-340-2024 (O&M)
Decided on : 22.03.2024

Narinder Kumar

.....Appellant(s)

Versus

Union of India and others

.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI

Present: Mr. Rishav Jain, Advocate for the appellant (s).

Mr. Sandeep Bhatia, Senior Panel Counsel for UOI.

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-795-LPA-2024

Application for condonation of delay of 84 days in re-filing the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit. Delay of 84 days in re-filing the appeal is condoned.

CM stands disposed of.

CM-794-LPA-2024

Application for condonation of delay of 12 days in filing the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit of the appellant. Delay of 12 days in filing the appeal is condoned.

CM stands disposed of.

LPA-340-2024

Consideration in the present letters patent appeal is sought of the order of the learned Single Judge dated 07.08.2023 passed in **CWP-17119-2018** filed by the appellant, wherein the Learned Single Judge has dismissed

the writ petition on the ground of maintainability as cause of action has not arisen within the jurisdiction of this Court. Accordingly, liberty was granted by the Learned Single Judge to avail remedies as permissible by law. Reliance was placed upon the earlier judgment passed in **CWP No.8829 of 2021 'Manoj Kumar Vs. Union of India and others'** decided on 26.07.2023.

2. A perusal of the writ petition would go on to show that challenge as such was raised to the order dated 13.08.2000 (Annexure P-3) wherein the Summary Security Force Court had sentenced the appellant for one year and also directed that he be dismissed from service, on account of the allegations of an attempt to commit rape and molestation. The incident as such had occurred in the State of West Bengal, where the appellant was serving being employed with the Border Security Force as a Constable. The sentence was further reduced by the Director General, Border Security Force to six months, vide order dated 08.12.2000 (Annexure P-5). Apparently, the appellant has also undergone the said period. Challenge is, thus, raised only to the dismissal from service.

3. In the reply filed on behalf of the Union of India, it has been averred that the writ petition also filed before the High Court of Delhi, which was later withdrawn and the earlier cases were dismissed by the High Court of Calcutta.

4. In the case of **Manoj Kumar (supra)**, the Learned Single Judge had relied upon a judgment of two Judge Bench of the Apex Court in **Nawal Kishore Vs. Union of India and others, (2014) 9 SCC 329**, apart from the Full Bench judgment of Allahbad High Court in **Manish Kumar Mishra Vs. Union of India and others, 2020 SCC Online ALL 535** and similarly a Full Bench judgment of Kerala High Court in **The Registrar, India Maritime**

University Vs. K.G. Viswanathan and another, 2014 SCC Online Ker 21221 and also a judgment of Coordinate Bench passed in CWP No.12420 of 2008 ‘M/s Vijay K. Jairath and Co. Vs. Union of India and another’ decided on 01.05.2012, to come to the conclusion that in the absence of any part of cause of action having arisen within the jurisdiction of this Court, no ground had been made out to entertain the writ petition.

5. Keeping in view the above, we are of the considered opinion that there is no plausible reason to take a contrary view to the view taken by the Learned Single Judge and neither the counsel has demonstrated that any cause of action arose here. Merely because the appellant is having a local address being resident of State of Punjab would not as such give us a reason to hold that this Court would have jurisdiction. Resultantly, there is no merit in the present appeal and the same is dismissed in limine.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

22.03.2024
Naveen

Whether speaking/reasoned :	√Yes	No
Whether Reportable :	Yes	√No