

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

2024:PHHC:057917-DB
CWP-26002-2023 (O&M)
Date of Decision: 29.04.2024.

Ex. Gunner (Lance Naik) Vijay Kumar ...Petitioner

Vs.

Union of India and others ...Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present Mr. Balwinder Singh, Advocate for the petitioner.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. Learned counsel submits that the petitioner had undergone the sentence before the judgment dated 27.09.2013 was pronounced and he had no knowledge that he could challenge the judgment dated 27.09.2013. He accordingly prays for setting aside of General Court Martial judgment dated 06.06.2003, awarding sentence of 10 years and dismissing the petitioner from service, so that, he may get retiral benefits.

2. We have carefully considered the judgment and find that the order dated 06.06.2003, passed by the General Court Martial in general court martial proceedings was challenged by the petitioner before the Armed Forces Tribunal, Regional Bench, Chandigarh, which upheld the decision of the General Court Martial, vide order dated 27.09.2013. Whereafter, the petitioner had not approached any forum and the writ petition has now been filed after a period of ten years.

3. The only ground raised is that the petitioner had no knowledge of preferring the petition challenging the order passed by the AFT. Admittedly, in terms of the order passed by the AFT on 27.09.2013, an appeal lies under the Armed Forces Tribunal Act, before the Hon’ble Supreme Court which was not availed by the petitioner yet now. The Hon’ble Apex Court in the case of Union of India vs. Purshotam Dass 2023 (3) SLR 1, has provided a forum to file writ petition before the High Court against the orders passed by the AFT.
4. In view thereof, we would not entertain a petition challenging the judgment passed by the AFT ten years back. The writ petition is hit by gross delay and laches and is accordingly dismissed.
5. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

29.04.2024.
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| 1. Whether speaking/reasoned? | : | Yes/No |
| 2. Whether reportable? | : | Yes/No |