



CWP-12967-2025

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

CWP-12967-2025**Date of Decision: 07.05.2025****KARAM SINGH**

..... Petitioner

*Versus***STATE OF PUNJAB AND OTHERS**

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. P.K. Goklaney, 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 direction to respondents to promote him to the post of DSP alongwith all consequential benefits from the date his juniors were promoted. He is further seeking setting aside:

- (i) Order dated 20.10.2010 (Annexure P-2) whereby his one year permanent service was forfeited;
- (ii) Communication dated 20.06.2024 (Annexure P-3) and dated 28.06.2024 (Annexure P-4) whereby his application has been dismissed.

2. The petitioner is claiming that he was burdened with a harsh punishment due to which he was not further promoted. One Ram Parkash who joined department after his appointment has already



been promoted to the post of DSP. He was subjected to arbitrary and disproportionate penalty.

3. Mr. P.K. Goklaney, Advocate submits that respondents have passed impugned orders in a mechanical manner and without application of mind. The penalty imposed is arbitrary and disproportionate to alleged misconduct. The penalty order was based upon pre-determined conclusion rather than a fair assessment of evidence.

4. I have heard arguments of learned counsel for the parties and perused the record with their able assistance.

5. From the perusal of record, it is evident that order of punishment was passed by Senior Superintendent of Police on 20.10.2010 (Annexure P-2). A period of more than a decade has already passed away. There is no reasonable and plausible explanation for the inordinate delay. Communication dated 20.06.2024 (Annexure P-3) and dated 28.06.2024 (Annexure P-4) do not create cause of action unless and until order dated 2010 is set aside.

6. No hard-and-fast rule can be laid down as to when the High Court should refuse to exercise its jurisdiction in favour of a party who moves it after considerable delay and is otherwise guilty of laches. Discretion must be exercised judiciously and reasonably. In the event that the claim made by the applicant is legally sustainable, delay should be condoned. Where illegality is manifest, it cannot be sustained on the sole ground of laches. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred. State cannot deprive vested right because of a non-deliberate delay.



7. 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 considerable 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 laches 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 laches, 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 laches on the part of the applicant in approaching a writ court.”*



8. Applying the aforesaid judgment, this Court finds no explanation for delay in the instant case.

9. Scope of interference while exercising jurisdiction under Articles 226/227 of the Constitution of India in disciplinary proceedings is very limited. The Court has no power to look into quantum of sentence/punishment unless and until Court finds that sentence awarded is disproportionate to alleged offence. It is further settled proposition of law that High Court while exercising its jurisdiction under Article 226 of Constitution of India can look into the procedure followed by authorities. In case, it is found that enquiry officer or disciplinary authority has not considered any evidence on record or misread the evidence or procedure as prescribed by law has not been followed, the Court can interfere. A two judge Bench of Hon'ble Supreme Court in **Union of India and others vs. Subrata Nath, (2022) SCC OnLine 1617** while advertng with scope of interference under Article 226 of the Constitution of India in disciplinary proceedings has held that departmental authorities are fact finding authorities. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct. The Hon'ble Supreme Court has considered its judicial precedents including a two-judge Bench judgment in **Union of India and Others v. P. Gunasekaran, (2015) 2 SCC 610**.

10. The Supreme Court has time and again reminded that High Court cannot examine factual position and disturb findings recorded by departmental authorities. The Court has further held that High Court



cannot re-quantify quantum of punishment, however, if Court finds that punishment awarded is disproportionate to alleged offence, the Court may ask the authorities to re-consider quantum of punishment. In the instant case, the respondent has passed impugned order after following due process of law. There is no procedural or legal infirmity in the impugned order.

11. In view of aforesaid facts and circumstances, this Court is of the considered opinion that instant petition deserves to be dismissed on merit as well as limitation, accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

07.05.2025
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No