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

CWP-17971-2025

Date of Decision: 04.07.2025

GURCHARAN SINGH

..... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Amandeep Singh Sidhu, Advocate and
Mr. Gurpreet Singh Sidhu, 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:

- (i) Order dated 18.11.1996 (Annexure P-1) whereby his two years service has been forfeited with permanent effect;
- (ii) Order 31.10.2004 (Annexure P-2) whereby his appeal has been dismissed;
- (iii) Order dated 22.02.2007 (Annexure P-3) whereby his revision has been dismissed;
- (iv) Order dated 14.02.2013 (Annexure P-4) whereby his appeal filed before DGP, Punjab has been dismissed; and
- (v) Order dated 04.10.2018 (Annexure P-5) whereby his appeal filed before Government has been dismissed.



2. The petitioner was awarded punishment of forfeiture of two years service vide order dated 18.11.1996 (Annexure P-1) passed by SSP, Mansa. The said punishment was awarded on account of absence from duty from 08.06.1995 to 11.10.1995. He preferred an appeal before DIG, Faridkot Range, Bathinda which came to be dismissed vide order dated 31.10.2004. He further preferred revision before IGP, Ferozepur Zone, Bathinda who vide order dated 22.02.2007 dismissed the same. He preferred appeal before DGP, Chandigarh who vide order dated 14.02.2013 dismissed the same. Despite availing all statutory remedies, he filed appeal before Government which came to be dismissed vide order dated 04.10.2018 (Annexure P-5) passed by Additional Chief Secretary Home, State of Punjab.

3. There is no provision of appeal before the State Government against orders passed by DGP still petitioner preferred appeal before the State Government against order dated 14.02.2013 (Annexure P-4) passed by DGP. Petitioner's first appeal was dismissed on the ground of limitation apart from merit. Original order of punishment was passed by SSP on 18.11.1996 (Annexure P-1). The Appellate Authority dismissed his appeal on 31.10.2004. Revision before IGP was not maintainable still he preferred on 26.10.2006 which came to be dismissed on the ground of delay as well as on merit. There is no provision of further appeal to DGP, however, he preferred appeal before DGP which was dismissed in 2013. There is no provision of appeal before Government still he preferred appeal before Government which came to be dismissed on 04.10.2018. A period of almost 7 years has expired from the date of passing order by Additional Chief Secretary Home.



4. On being asked, learned counsel for the petitioner expressed his inability to advance any plausible reason for the delay.

5. 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.

6. 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 latches 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 latches 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.”

7. This Court finds no explanation for delay in the instant case. The petitioner as noticed above availed multiple inadmissible remedies. Last order was passed in 2018 and present petition has been filed after the expiry of almost 7 years. The orders passed by authorities are quasi-judicial. There is no reasonable explanation for delay. The present petition deserves to be dismissed on the ground of delay and laches and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

04.07.2025
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No