

**CWP-28674-2024****-1-**

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

253**CWP-28674-2024****Date of Decision: 11.08.2025****Parkash Ram****...Petitioner**

Versus

**DGP-cum-Commandant General Home Guard, U.T., Chandigarh and
others**

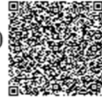
...Respondents**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL****Present: - Mr. Aditya Grover, Advocate for the petitioner**

**Mr. Sumeet Jain, Additional Standing Counsel and
Ms. Shubreet Kaur, Advocate for the respondents**

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 02.09.2024 whereby respondent has rejected his appeal against order dated 08.02.2023. By order dated 08.02.2023, a Committee of Officers had rejected claim of the petitioner to re-enroll him as member of Home Guards.

2. The petitioner is a matriculate and he joined as member of Home Guards with Chandigarh Home Guards on 28.12.1992. He was implicated in FIR No.250 dated 16.08.2008 under Section 120-B of Indian Penal Code, 1860 (for short '**IPC**') and Sections 8 and 9 of Prevention of Corruption Act, 1988 (for short '**PC Act**') which upon transfer of investigation was later on renumbered as FIR No.RC AC2 2008 A 0004 dated 28.08.2008 under Sections 11 and 12 of PC Act and Section 120-B



read with Sections 192, 196, 199 and 200 of IPC registered at Police Station CBI, ACU II, New Delhi. The petitioner was arrested on 16.08.2008 and thereafter, released on regular bail. Central Bureau of Investigation ('CBI') conducted investigation and thereafter filed its report wherein petitioner was not named as accused. The respondent vide order dated 26.08.2008 discharged him from service. The Trial Court framed charges against co-accused. At no stage, the petitioner was treated as accused after filing of police report. He requested the respondent to re-enroll him but to no avail. There were many Home Guards who have been implicated in criminal cases and discharged from service. The respondent in 2022 formed an opinion that a committee should be constituted to redress grievances of Ex-Home Guards who have been discharged from the roll of Home Guards on various grounds such as criminal cases, disciplinary grounds or long absence on medical grounds and submitted their representations from time to time. The Committee considered case of 17 Ex-Home Guards. By its report dated 24.03.2022, it permitted 6 persons to rejoin and claim of 11 was rejected. In 2023, the respondent again constituted a committee for the aforesaid purpose which considered case of 30 Ex-Home Guards. This time, claim of everyone was rejected. The petitioner preferred an appeal before the Appellate Authority which dismissed claim of the petitioner on the ground of delay.

3. Learned counsel for the petitioner submits that the petitioner without assigning any plausible reason was not re-enrolled whereas others having worse position were re-enrolled. They had faced trial and were re-enrolled after almost 20 years. The petitioner was found innocent even by



CBI, thus, there was no occasion to deny him benefit of re-enrollment on the ground of parity.

4. *Per contra*, learned counsel for the respondents submit that the petitioner was found innocent in 2011 and was discharged from service in 2008. He remained silent up to 2018. He was bound to challenge discharge order as per provisions of Punjab Home Guards Act, 1947 read with Punjab Home Guards Rules, 1963. The Appellate Authority has rightly dismissed appeal of the petitioner on the ground of delay. The conduct of the petitioner was not *bona fide* which is evident from the fact that he was arrested by Chandigarh Police.

5. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

6. From the perusal of report dated 24.03.2022 (Annexure P-6) of 1st Committee, it is evident that it was respondent who intentionally rekindled dead claim of Ex-Home Guards who were discharged on account of criminal cases. The relevant extracts of said report are reproduced as below: -

“54. It is submitted that in addition to Para-1 of Standing Order-01/2021 of Home Guards (Flag 'J'), a corrigendum vide order no.281-83/DCHG/E-1/2021 dated 19.02.2021 has been issued that "a Committee shall be constituted to redress the grievances of Ex-HGVs who have been discharged from the rolls of Home Guards Organization on various grounds such as criminal cases, disciplinary grounds or long absent on medical grounds and submitted their representations from time to time. The Committee formed for the purpose may examine all such applications/cases received and may



recommend appropriate name, if any, to the Commandant General Home Guards for consideration for re-enrolment in voluntary service." (Flag 'A')

55. In view of aforesaid orders, the Commandant General Home Guards, UT, Chandigarh vide order no.284-87/DCHG/E-1/2021 dated 19.02.2021 (Flag 'B') has constituted a committee consisting of following Officers to redress the grievances of Ex-HGVs who have been discharged from the rolls of Home Guards organisation on various grounds such as criminal cases, disciplinary grounds or long absent on medical grounds and submitted their representations from time to time:

- | | | |
|-------------------------------------|----------|-----------------|
| <i>1. IGP/UT</i> | <i>-</i> | <i>Chairman</i> |
| <i>2. SSP/Sec. & Traffic/UT</i> | <i>-</i> | <i>Member</i> |
| <i>3. DCHG</i> | <i>-</i> | <i>Member"</i> |

7. The aforesaid Committee re-enrolled 6 Ex-Home Guards who were discharged on earlier occasion. Harbhajan Singh was discharged on 19.12.2003 and he was re-enrolled in 2022. This was flagrant disregard of judicial hierarchy and principles of delay and laches. An order of discharge is an appealable order. Order passed by Appellate Authority is a quasi-judicial order. The re-enrolled Ex-Home Guards had either not challenged discharge order or Appellate Authority has dismissed their appeals. This Court cannot conclusively hold that Appellate Authority has dismissed their appeals because there is nothing on record, however, it is certain that order of discharge had become final otherwise there was no reason for the Committee to reconsider claim of these Ex-Home Guards.

The Appellate Authority has dismissed appeal of the petitioner on the sole ground that there was delay on the part of petitioner in assailing



the discharge order. The relevant extracts of order dated 02.09.2024 passed by Appellate Authority are reproduced as below: -

“This very view has recently been reiterated by our Hon'ble High Court in case titled as State Of Punjab and Ors. vs. Shingara Singh and Ors.: I.L.R. (P&H) 2022(2) 540. Aforesaid principles squarely apply to the present litigation which has been initiated at a belated stage. As far as the law laid down in Didar Singh's case (supra) relied upon by the appellant is concerned, it is added that the petitioner - Didar Singh was arrested on 02.09.2016 and he remained in judicial custody till 09.09.2016, on account of such misconduct. he was discharged on 21.09.2016. Thereafter, petitioner - Didar Singh was acquitted of all charges by the Id. Judicial Magistrate 1st Class, Kharar. vide judgment dated 25.09.2018 and he had submitted a representation for reinstatement on 13.03.2019 i.e. within 5½ months of his acquittal. Thus, said Didar Singh was quite vigilant of his right as he within reasonable period of about 6 months sought reinstatement and in the light of such facts, the Hon'ble High Court while taking in to account the provision contained under Rule 27 of 1963 Rules ordered his reinstatement. On the contrary, it is an admitted fact that appellant - HGV Parkash Ram, Belt No. 183 was discharged from the rolls of Chandigarh Home Guards with immediate effect, by the then Commandant General, Home Guards-cum-IGP, UT Chandigarh vide order dated 26.08.2008 due to arrest in case FIR No 250 dated 16.08.2008 under Sections 8 and 9 of PC Act and 120B IPC, Police Station 11, Chandigarh. It is evident on record that CBI vide its final report dated 03.03.2011 charge-sheeted 5 accused namely (i) Sh. Sanjeev Bansal; (ii) Sh. Ravinder Singh alia Ravinder Singh Bashin; (iii) Sh. Rajiv Gupta; (iv) Sh. Nirmal Singh; and (v) Mrs. Justice Nirmal Yadav, whereas appellant- Parkash Ram, who was earlier arrested in the case was not charge-sheeted. Meaning thereby appellant-Parkash Ram during investigation



was found innocent way back on 03.03.2011, but he did not challenge order of his discharge dated 26.08.2008 either immediately or at least within a period of 3 years from the date when he was found innocent during investigation. It means that he had accepted the order of his discharge. He woke up in the year 2023 only after finding that some other person who was also discharged on account of registration of an FIR wherein he had recently been acquitted, got the relief from the Hon'ble High Court. By that time, more than 12 years had passed. Therefore, law laid down by our Hon'ble High Court in Didar Singh (supra) renders no support to the cause of appellant because the present appeal is hopelessly time barred, on account of which grievance of the appellant can not be entertained on merits.

11. Keeping in view the facts detailed above, I am of the considered opinion that the appellant has tried to revive a dead cause which is burdened with delay of more than 12½ years and is not liable to be entertained. Resultantly, the present appeal is hereby dismissed.”

8. From the perusal of above-quoted order, it is evident beyond the pale of doubt that appeal of the petitioner has been rejected on the sole ground of delay. The Appellate Authority has not considered the factum that it was the respondent who constituted two Committees to consider question of re-enrollment of Ex-Home Guards who were discharged on account of criminal cases. The respondent, by considering claim of Ex-Home Guards, wiped out doctrine of delay and laches. The said principle was thrown to winds. The respondent acted in such a fashion that it is discretion of the authorities to induct or expel any employee at any point of time and there is no rule of law. As it was the respondent who condoned delay in a fashion



unknown to law, the Appellate Authority has wrongly dismissed appeal on the ground of delay.

9. This is second round of litigation, thus, this Court does not find it appropriate to remand the matter back to the Appellate Authority to reconsider claim of the petitioner on merit because it would only multiply the litigation which is corroborated from the reply of the respondent.

10. The Committee of Officers considered claim of the petitioner along with other Ex-Home Guards and rejected his claim. The findings recorded by Committee are reproduced as below: -

“9. EX-HGV PRAKASH RAM NO.183

*S/o Sh. DES RAJ R/O # NADA TEHSIL KHARAR
DISTRICT MOHALI (PB)*

1	<i>Date of Enrolment</i>	<i>15.03.2003</i>
2	<i>Date of Birth</i>	<i>08.03.1972</i>
3	<i>Age as on 01.10.2022</i>	<i>50 years 6 Months 24 Days</i>
4	<i>Date of discharge</i>	<i>26.08.2008</i>
5	<i>Reason of discharge</i>	<i>A Case FIR No.250 dated 16.08.2008 U/s 8,9 of PC Act and 120-8 IPC PS-11 was registered against him and he was arrested in above said case on 16.08.2008, subsequently, discharged from the rolls of Home Guards Organization vide order no.1620-25 dated 26.08.2008.</i>
6	<i>Request of the applicant</i>	<i>He was discharged from service on account of false implication in the aforesaid criminal proceeding. However, as per final report of the Hon'ble Court of Special Judge for CBI</i>



		<i>Cases at Chandigarh he was found to be innocent and was not arrayed as an accused anymore by CBI. He may be re-enrolled in HG Organization as volunteer.</i>
--	--	---

Note:

A Case FIR No.250 dated 16.08.2008 U/s 8, 9 of PC Act and 120-B IPC Police Station-11, Chandigarh was registered against the applicant and he was arrested in above said case on 16.08.2008. Subsequently he was discharged from the rolls of Home Guards Organization vide order no.1620-25 dated 26.08.2008. However, as per the final-report of the Hon'ble Court for special cases of CBI at Chandigarh, he has not been charge-sheeted but the status of his case i.e., "ON BAIL, NOT ABSCONDING".

Review by the Committee:

Ex-HGV Prakash Ram No.183 appeared before the Committee on 15.11.2022. The Committee heard the applicant, examined his case carefully and found that applicant was discharged by the Competent Authority as a Case FIR No.250 dated 16.08.2008 U/s 8, 9 of PC Act and 120-B IPC PS-11 was registered against Ex-HGV and he was arrested in above said case on 16.08.2008. However, as per the final report of the Hon'ble Court for CBI cases, he has not been charge-sheeted but the status of his case i.e., "ON BAIL, NOT ABSCONDING". However (sic), the applicant could not satisfy the Committee to prove his innocence.

Recommendation of the Committee:

The Committee recommends that Ex-HGV Prakash Ram No.183 is not fit for re-enrolment as volunteer in Chandigarh Home Guards Organization.”

11. From the perusal of findings of the Committee, it is evident that there was no appreciation of factual or legal position. The matter was investigated by CBI and the petitioner was not named as accused in the police report though there were 5 co-accused against whom police report was filed. As CBI itself found the petitioner innocent, there was no question for the petitioner to prove his innocence before the Authorities. It is apt to

**CWP-28674-2024****-9-**

notice that Trial Court never summoned the petitioner as additional accused. The Committee has further considered that as per case status, the petitioner is “*on bail, not absconding*”. The CBI had not filed challan against the petitioner and he was never summoned by the Trial Court, thus, there was no question to determine his status on the basis of case status. The respondent has considered and re-enrolled 6 Ex-Home Guards who were discharged on account of one or another criminal case.

12. In the wake of above discussion and findings, this Court is of the considered opinion that case of the petitioner needs to be reconsidered in the light of case of 6 persons named in Para No.58 of the report dated 24.03.2022 (Annexure P-6). Let the needful be done within three months from today.

13. Disposed of in above terms.

14. It is made clear that if the petitioner is re-enrolled, he shall not be entitled to financial benefits with respect to the period he remained out of service.

(JAGMOHAN BANSAL)
JUDGE

11.08.2025
Mohit Kumar

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