



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

CWP-31049-2025

Date of Decision:29.10.2025

Gursewak Singh

...Petitioner

VS.

State of Punjab and others

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. S.K.Kanojia, Advocate
 for the petitioner.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Article 226/227 of the Constitution of India with a prayer to issue a writ in the nature of certiorari to quash the order dated 22.08.2012 (Annexure P-3/T) and the order dated 06.03.2013 (Annexure P-4/T) passed by respondents No.2 and 3, whereby the petitioner, who is a driver, was dismissed from service, being a convict employee under Section 304-A IPC. A further prayer has been made to issue directions to the respondents for releasing all the retiral benefits i.e. gratuity, leave encashment and pension, which was earned by the petitioner during his service.

2. Learned counsel for the petitioner submits that the petitioner was inducted in service as a driver with Punjab Roadways in the year 1981. Unfortunately, on 28.09.1987, the bus driven by the petitioner met with an accident at Jandiala and one cyclist died in the accident. Consequently, the



FIR No.259/1987 under Section 304-A IPC was ordered to be registered at Police Station Jandiala against the present petitioner. On 09.02.1994, the petitioner was convicted by the trial Court under Section 304-A IPC and was sentenced to undergo RI for a period of one year and Rs.500/- as fine. The appeal filed by the petitioner was dismissed on 25.10.1995. The petitioner also challenged the judgments passed by the trial Court as well as the Appellate Court by filing a criminal revision petition before this Court and vide order dated 15.03.2010 (Annexure P-2), the revision petition was dismissed by this Court. On 08.06.2012, respondent No.3 issued a notice to the petitioner for termination of his service as he stood convicted by two Courts under Section 304A-IPC and was directed to file his reply. The petitioner submitted a detailed reply, explaining the facts that the accident had not taken place due to his fault and he had been wrongly convicted by the Courts. However, vide order dated 22.08.2012 (Annexure P-3/T), respondent No.3 terminated the service of the petitioner by referring to Rule 13 (1) of the Punjab Civil Services (Punishment and Appeals) Rules 1970. The petitioner filed an appeal before respondent No.2, but respondent No.2 also dismissed the appeal filed by the petitioner on 06.03.2013 (Annexure P-4/T). Learned counsel submits that the impugned orders (Annexure P-3/T and Annexure P-4/T) were passed by the respondents without holding an inquiry and without granting an opportunity of hearing to the petitioner. After six years, i.e. on 02.11.2018, the petitioner again submitted a mercy application before the Transport Minister to reinstate him or at least release his retirement benefits, but to no avail. The petitioner was again granted an opportunity of personal



hearing on 15.08.2021 by Principal Secretary, Transport Department, Punjab. However, his prayer was again rejected by him. The petitioner has made several representations to the respondents to release his retiral benefits, but the respondents have not paid any heed to his requests.

3. I have heard learned counsel for the petitioner and perused the record carefully.

4. In the present case, it is an admitted fact that the petitioner, who is a bus driver of Punjab Roadways, has been convicted by the Court of Judicial Magistrate 1st Class, Amritsar, under Section 304-A IPC on 09.02.1994. The appeal filed by the petitioner was dismissed by the Court of Additional Session Judge, Amritsar on 25.10.1995. Even a criminal revision petition filed by the petitioner before this Court was also dismissed on 15.03.2010. Consequently, a show cause notice dated 08.06.2012 was issued by respondent No.3 regarding termination of his services and vide order dated 22.08.2012 (Annexure P-3/T), respondent No.3 terminated the services of the petitioner. Even the appeal filed by the petitioner was found to be without any merit and the appeal was dismissed by respondent No.2 on 06.03.2013, vide order (Annexure P-4/T). No doubt, thereafter, the petitioner approached Transport Minister after six years and the Principal Secretary, Transport Department after eight years, but those were not the statutory remedies available to the petitioner and he had just filed his mercy petitions before the senior officers. The final order in the appeal filed by the petitioner was passed on 06.03.2013 (Annexure P-4/T), whereas the present petition has been filed after an inordinate delay of about 12 years. Even in the petition, no



explanation has been offered by the petitioner. Anyone, who claims rights, must be vigilant and he must enforce his rights within a reasonable time. However, in the present case, the petitioner has raised his grievances after a period of 12 years and the petition is not maintainable at this distance of time.

5. The similar controversy has been considered by Hon'ble the Supreme Court in ***Mrinmoy Maith v. Chhanda Koley and others, 2024 SCC Online SC 551***. 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 filling 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.”

6. Applying the above observations, this Court is of the considered view that the respondent was justified in rejecting the claim being hopelessly time-barred and thus, it can be safely held that relief claimed by the petitioner in the present writ petition is barred by delay and laches.

7. In view of the facts and circumstances of the case noted above as well as the observations made by Hon'ble the Supreme Court in the matter of



Mrinmoy Maith (supra), the present petition stands dismissed, being the same badly hit by doctrine of delay and laches.

8. Pending application(s), if any, shall also stands disposed off, accordingly.

29.10.2025
hemlata

(N.S.SHEKHAWAT)
JUDGE

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