IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.624 of 2019
Decided on: 25.04.2026

Raj Baksh ...Petitioner

Versus

State of H.P. and another ...Respondents

Coram

Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.

Whether approved for reporting?[1]

For the petitioner: **Mr. Amir Khan, Advocate.**

For the respondents: **Mr.Rupinder Singh Thakur, Additional Advocate General with Mr. Vishwadeep Sharma, Deputy Advocate General**

Jiya Lal Bhardwaj, Judge (Oral)

By way of present writ petition, the petitioner has prayed for the following substantive relief:-

> *"(i) To quash Annexure P-7 dated 21.3.2011 passed by Respondent No. 2 with further directions to consider the case of the petitioner for appointment as Home Guard on the lines of the orders passed in case of 4 Home Guards as per Annexure P-8 coupled with Annexure P-9 in preference to fresh hands being appointed by the respondents.*

[1] *Whether the reporters of Local Papers may be allowed to see the judgment?*

2. The facts emerging from the pleading are that the petitioner was initially appointed as Home Guard on 06.06.1988 and continuously worked till December, 1998. Thereafter, he was not called for duties for the reasons best known to the respondents. However, the petitioner had got Diploma in Fire Fighting/Training and further, also attended the advanced course at the Central Training Institute from 06.02.1989 to 11.03.1989.

3. It is further averred that during the year August, 2007, a delegation of Home Guard volunteers had met respondent No.2 and submitted a joint representation for their appointment. Prior to that, respondent No.2 had issued a letter to consider the case of Mohan Lal and Raj Kumar for their appointment as Home Guards. However, when nothing was done, the petitioner had filed the Writ Petition bearing **CWP No. 5630 of 2010,** ***titled, Raj Baksh vs. State of H.P. and another*****,** which came to be disposed of on 28.02.2011 along with connected petitions, directing respondent No.2 to consider the cases of the petitioners.In sequelto the said directions given by this Court, respondent No.2 after considering the case of the petitioner, had rejected the claim vide office order dated 21.03.2011 holding that the petitioner was discharged from the organization for not turning up on duties/training despite having been called for the same and thisamounts to indiscipline and shows

that the individual was not interested in serving the organization at that point of time. Further, the services of the individual cannot be of much use in the organization at this stage as he has been out of touch from the working of the organization for the last 12 years.

4. The petitioner has challenged the said order dated 21.03.2011 passed by respondent No. 2 on the grounds that the order passed, is without due application of mind and ignoring the past experience. Further, this Court had already held in its order dated 22.06.2010 (Annexure P-8) holding that the judgment passed in CWP No. 64 of 2010 has been implemented and thus, similar treatment be given to the petitioners in those cases, which were decided on 22.06.2010. Once the said persons have been appointed, there is no reason to decline the appointment to the petitioner. The petitioner belongs to lower strata of society and this fact has not been considered.

5. The respondents filed reply to the petition and averred that the petitioner was discharged from the post of Home Guard on 29.04.1999 and the petition filed suffers from delay and laches and thus, deserves to be dismissed. After the directions issued by this Court, the representation made by the petitioner was considered after application of mind and the same was rejected specifically holding that the services of the petitioner at this stage cannot be of

much use to the organization as he has been out of touch from the working of the organization for the last 12 years. So far, the engagement of the other persons was concerned, it was averred that they have been re-enrolled with the directions of the Court, however, the department has filed the review petitions.

6. The petitioner has not filed rejoinder to the reply filed by the respondents.

7. I have heard the learned counsel for the petitioner as well as learned counsel for the respondents and also perused the record carefully. It is not in dispute that the services of the petitioner were disengaged on 29.04.1999. For the first time,the petitioner had approached this Court by filing the Writ Petition in the year 2011, which came to be disposed of on 28.02.2011. There is no murmur in the entire petition that why the petitioner could not come to the Court earlier before approaching the Court. A bald averment has been made in the petition that a delegation of Home Guard volunteers had metwith respondent No.2, who made the representation on 06.01.2007. The name of the petitioner does not figure in the said representation made by the delegation of Home Guards. In the petition, it has also not been stated that why the petitioner was not turning up on duties/training despite having been called for the same. The petitioner has not disputed these facts,

which have been categorically reported by respondent No.2 while rejecting the representation made by him while passing order dated 21.03.2011. Once, the petitioner has not approached the Court within a reasonable time, the claim put forth cannot be entertained and the petition filed by him is hopelessly barred by delay and laches.

8. The petitioner has not disputed the fact that his services were disengaged on 29.04.1999, as specifically pleaded in the reply and also in the order under challenge. At the time when the services of the petitioner were disengaged, the Himachal Pradesh Administrative Tribunal was in existence and the petitioner could have filed the Original Application. But once the petitioner did not rake up the issue, the petition cannot be entertained at this stage. It is relevant to mention that a seven-Judge Bench of the Hon'ble Supreme Court in **S.S. Rathore vs. State of Madhya Pradesh, AIR 1990 SC 10** had the occasion to consider the ambit and scope of Section 21 of the Administrative Tribunals Act, 1985, under which the petitioner could have filed the Original Application, held that a period of one year for making of the application and power of condonation of delay of a total period of six months. However, in the present case, even if the period is taken upto February, 2010, when the petitioner had earlier filed the writ

Petition, it was filed after about 11 years of disengagement of the petitioner. Since, the petitioner was not vigilant about his rights, he cannot be granted any relief at this stage.

9. This Court can also not lose sight of the fact that the petitioner is now 59 years of age. The petitioner cannot claim parity of the decision passed in other cases, once he had not come to the Court within reasonable time. The plea raised in the petition by the petitioner that he belongs to lower strata of society, cannot advance his case for the reason that the law applies equally to everyone.

10. It is also relevant to notice that when earlier petition preferred by the petitioner was disposed of, the Court had only given directions to consider the representation filed by the petitioner. Respondent No.2 had rejected the representation holding that since, the petitioner was not attending the duties as per the requirement of respondent No.2 despite calling him, it amounts to indiscipline and also shows that he was not interested in serving the organization at that point of time and thus, disengaged his services. Not only this, another ground weighed with respondent No.2 while rejecting the representation was that the services of the petitioner cannot be much of use to the organization, since he had been out of touch from the working of the organization for the last 12 years, which reason cannot be said to be perverse.

11. Consequently, I do not find any merit in the writ petition and the same is accordingly dismissed. However, no orders as to cost. Pending applications, if any, also stand disposed of.

(**Jiya Lal Bhardwaj**)
Judge

25th April, 2026
(Vriti)