



CWP-15836-2022 (O&M)

:1:

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

213

CWP-15836-2022 (O&M)
Date of decision : 17.04.2026

Nirdesh Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present :- Mr. Nafeesh Ahmed, Advocate
Mr. Lalit M. Barara, Advocate for the petitioner.

Mr. Vivek Chauhan, Addl. AG, Haryana.

Deepinder Singh Nalwa, J. (Oral)

1. In the present writ petition, the petitioner has challenged the order dated 18.06.2019 (Annexure P-1) passed by the Centre Commander (Home Guard), Bhiwani, Haryana, vide which, the petitioner has been terminated/discharged from service. The petitioner has further prayed for issuance of direction to the respondents to consider the candidature of the petitioner for selection and appointment on the post of Home Guard Volunteer.

2. The brief facts of the case are that the petitioner was appointed as Volunteer Swayam Sewak (Home Guard) in the office of District Commander, Bhiwani, in the month of July, 2014. The petitioner was terminated/discharged from service vide order dated 18.06.2019 (Annexure P-1). As per the petitioner, he sought information under the Right to Information Act, 2005 vide application dated 02.07.2019 to know, as on what basis, the petitioner was

**CWP-15836-2022 (O&M)****:2:**

terminated/discharged from service. It transpires that the concerned authority vide reply dated 13.09.2019 stated that the petitioner was found guilty of indiscipline in the concerned department and was also guilty of violence with other home guards. As such, the petitioner was terminated/discharged from service. The petitioner also moved an application/representation dated 16.09.2021 (Annexure P-2) after 02 years before the Director General of Police (Home Guard), Chandigarh for re-joining as Volunteer Swayam Sewak (Home Guard), however, no action was taken by the concerned department on the abovesaid application. Aggrieved against the action of the respondents in terminating/discharging the petitioner from service vide order dated 18.06.2019 (Annexure P-1), the petitioner has filed the present writ petition.

3. The only contention raised by the learned counsel appearing on behalf of the petitioner is that no notice or any opportunity of hearing was given to the petitioner before passing of the order dated 18.06.2019 (Annexure P-1) vide which, the petitioner was terminated/discharged from service. As such, the abovesaid order of termination/discharge from service is liable to be set aside.

4. On the other hand, learned counsel appearing on behalf of the respondents-State submits that the petitioner was discharged from service due to his indiscipline act of destroying the image of the department in public. As such, the order dated 18.06.2019 (Annexure P-1), vide which, petitioner has been terminated/discharged from service is legal and valid. It is also submitted by the learned counsel that the present writ petition has been filed after inordinate delay of 3 years, as such, the same is also liable to be dismissed on the ground of delay and laches.



CWP-15836-2022 (O&M)

:3:

5. I have heard the learned counsel appearing on behalf of the parties at length and have perused the record with their able assistance.

6. A perusal of the present writ petition would show that the present writ petition has been filed after an inordinate delay of more than 3 years. No valid explanation has been given in regard to filing the present writ petition after such an inordinate delay.

7. It is well-settled law that where there is an inordinate delay in filing the writ petition, the writ petition should not ordinarily be entertained. A perusal of the facts of the present case would show that no explanation has been given by the petitioner in knocking the doors of this Court after such an inordinate delay.

8. *In State of M.P. and others vs. Nandlal Jaiswal and others, (1986) 4 SCC 566*, the Supreme Court has held that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution of India is discretionary and that the High Court in the exercise of its discretionary power would not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there was inordinate delay on the part of the petitioner in filing of the writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. The relevant extract of the judgment in *Nandlal Jaiswal's case (surpa)* reads as under:-

“24. Now, it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to

**CWP-15836-2022 (O&M)****:4:**

intervene and grant relief in the exercise of its writ jurisdiction. The evolution of this rule of laches or delay is premised upon a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy under the writ jurisdiction because it is likely to cause confusion and public inconvenience and bring in its train new injustices. The rights of third parties may intervene and if the writ jurisdiction is exercised on a writ petition filed after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. When the writ jurisdiction of the High Court is invoked, unexplained delay coupled with the creation of third party rights in the meanwhile is an important factor which always weighs with the High Court in deciding whether or not to exercise such jurisdiction. We do not think it necessary to burden this judgment with reference to various decisions of this Court where it has been emphasised time and again that where there is inordinate and unexplained delay and third party rights are created in the intervening period, the High Court would decline to interfere, even if the State action complained of is unconstitutional or illegal. We may only mention in the passing two decisions of this Court one in *Ramanna Dayaram Shetty v. International Airport Authority of India*, (1979)3 SCR 1014 and the other in *Ashok Kumar v. Collector, Raipur*, (1980)1 SCR 491. We may point out that in *R.D. Shetty's case* (supra), even though the State action was held to be unconstitutional as being violative of Article 14 of the Constitution, this Court refused to grant relief to the petitioner on the ground that the writ petition had been filed by the petitioner more than five months after the acceptance of the tender of the fourth respondent and during that period, the fourth respondent had incurred considerable expenditure, aggregating to about Rs.1.25 lakhs, in making arrangements for putting up the restaurant and the snack bar. Of course, this rule of laches or delay is not a rigid rule which can be cast in a straitjacket formula, for there may be cases where despite delay and creation of third party rights the High Court may still in the exercise of its discretion interfere and grant relief to the petitioner. But such cases where the demand of justice is so compelling that the High Court would be inclined to interfere in spite of delay or creation of third party rights would by their very nature be few and far between. Ultimately it would be a matter within the discretion of the Court; *ex hypothesi* every discretion must be exercised fairly and justly so as to promote justice and not to defeat it.”



CWP-15836-2022 (O&M)

:5:

9. In *New Delhi Municipal Council vs. Pan Singh and others, (2007) 9 SCC 278*, the Supreme Court held that though there is no period of limitation provided for filing of a writ petition under Article 226 of the Constitution of India but ordinarily a writ petition should be filed within a reasonable time and that discretionary relief may not be exercised in favour of those who approach the Court after a long time especially when there is no explanation offered for such delay. Relevant paragraphs of *Pan Singh's case (supra)* are reproduced below:-

“15. There is another aspect of the matter which cannot be lost sight of. Respondents herein filed a Writ Petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the Writ Petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the Court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction.

16. Although, there is no period of limitation provided for filing a Writ Petition under Article 226 of the Constitution of India, ordinarily, Writ Petition should be filed within a reasonable time.”

10. In ***State of Tamil Nadu V. Seshachalam, (2007) 10 SCC 137***, held that mere filing of representations would not save the period of limitation. Relevant extract reads as under:-



CWP-15836-2022 (O&M)

:6:

“..... filing of representations alone would not save the period of limitation. Delay or latches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or latches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant.”

11. Reliance is also placed on the judgment passed by the Hon'ble Supreme Court of India in case of **Surjeet Singh Sahni Vs. State of U.P. and others, 2022 (15) SCC 536** decided on 28.02.2022, whereby, it was held that mere filing of representation does not extend the period of limitation. Relevant extract of the judgment is reproduced below:-

“5. As observed by this Court in catena of decisions, mere representation does not extend the period of limitation and the aggrieved person has to approach the Court expeditiously and within reasonable time. If it is found that the writ petitioner is guilty of delay and latches, the High Court should dismiss it at the threshold and ought not to dispose of the writ petition by relegating the writ petitioner to file a representation and / or directing the authority to decide the representation, once it is found that the original writ petitioner is guilty of delay and latches. Such order shall not give an opportunity to the petitioner to thereafter contend that rejection of the representation subsequently has given a fresh cause of action.”



CWP-15836-2022 (O&M) **:7:**

12. In view of the facts of the present case and aforesaid law laid down by Hon'ble the Supreme Court, the present writ petition is dismissed on the ground of delay and laches.

13. Pending miscellaneous application(s), if any, also stand(s) disposed of.

17.04.2026
Ramandeep Singh

(DEEPINDER SINGH NALWA)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable :	No