

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.17004 of 2015

Date of decision: 18.8.2015

Inderjit Singh

...Petitioner

Versus

State of Punjab and others

...Respondent

CORAM: MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Madhav Pokhrel, Advocate for the petitioner.

G.S.SANDHAWALIA, J, (Oral)

In the present writ petition, the prayer sought for is for issuance of appointment letter to the petitioner for the post of Library Restorer in the category of SC(M&B) on account of the fact that petitioner has secured 70.8923 marks and was figuring at Sr. No.6 in the merit list prepared. It is the further case of the petitioner that persons lower in merit who secured marks ranging from 61.1 to 62.3077 have been appointed.

Admittedly the posts were advertised on 23.9.2009 and the petitioner applied in pursuance of the same on the basis of his educational qualification. The merit list was prepared and it was not disputed that counselling was done way back in November, 2009 itself. The appointment was made in the year 2011 and the list of selected candidates have been uploaded on the website in November, 2011.

The petitioner failed to pursue his remedy at that point of time and after almost three years belatedly filed an application (Annexure P/9) on 23.4.2014. Thereafter, he slept over his right and then approached this Court by way of Civil Writ Petition No.6778 of 2015 which was dismissed as withdrawn on 10.4.2015 with liberty to file a comprehensive petition. Then thereafter legal notice dated 15.4.2015 (Annexure P/11) was alleged to have been served upon the respondents and accordingly the relief has been sought.

It is settled principle that law protects the ones who are vigilant and do not sleep over their rights. The selection is of 2009 and the list was prepared in 2011. The curtains have also come down on the selection and the same cannot be left open for times to come.

A similar issue came up for consideration before the Division

Bench of this Court in **LPA No. 1781 of 2014, Loveleen Kaur vs. State of Punjab and others** decided on 03.11.2014. It was held that the selection process cannot be kept pending till eternity so as to confer right on the applicants. The relevant observations read thus:-

“We find that the appellant cannot claim any direction for further counseling having failed to appear for the counseling on 7.7.2011. In response to a public notice, many candidates, including some of juniors to the appellant, have appeared for counseling. Once the appellant has failed to appear on a specific date, no grievance can be entertained so as to direct the respondent to hold another counseling. Learned Single Judge has rightly declined to interfere in the order passed by the respondents declining the representation of the petitioner.

Another argument raised by learned counsel for the appellant is that if in future it is decided to hold counseling again, the appellant should be called for counseling.

We do not find that any such direction can be given. The publication to conduct counseling was done through a public notice. The second counseling was conducted in the year 2011 i.e. more than 3 years earlier. The selection process once concluded, cannot be kept pending till eternity so as to confer right on the applicants for appointment. However, as and when any fresh advertisement seeking appointment is issued, it shall be open to the appellant to apply in accordance with law.

We do not find any merit in the appeal and the same is hereby dismissed.”

The Hon'ble Apex Court in **Pundlik Jalam Patil (D) by LRs. vs. Exe. Eng. Jalgaon Medium Project and another, 2009 (1) PLR 128** has observed as under:-

“14.....The applicant having set the machinery in motion cannot abandon it to resume it after number of years because the authority with whom it had entered into correspondence did not heed to its request to file appeals. The question is : Can the respondent/applicant in this case take advantage of its negligence, after lapse of number of years, of the decision of Government? It knew the exact grounds on which appeals could have been preferred. The law will presume that it knew of its right to file appeal against the award. Everybody is presumed to know law. It was its duty to prefer appeals before the court for consideration which it did not. There is no explanation forthcoming in this regard. The evidence on record suggest neglect of its own right for long time in preferring appeals. The court cannot enquire into belated and stale claims on the ground of

equity. Delay defeats equity. The court helps those who are vigilant and `do not slumber over their rights.'

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18. Shri Mohta, learned senior counsel relying on the decision of this court in [N. Balakrishnan vs. M. Krishnamurthy](#) [(1998) 7 SCC 123] submitted that length of delay is no matter, acceptability of explanation is the only criterion. It was submitted that if the explanation offered does not smack of mala fides or it is not put forth as part of dilatory tactics the court must show utmost consideration to the suitor. The very said decision upon which reliance has been placed holds that the law of limitation fixes a life span for every legal remedy for the redress of the legal injury suffered. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of Limitation is thus founded on public policy. The decision does not lay down that a lethargic litigant can leisurely choose his own time in preferring appeal or application as the case may be. On the other hand, in the said judgment it is said that court should not forget the opposite party altogether. It is observed:

It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.”

In view of the facts and circumstances noted above, this Court is not inclined to issue any direction in exercise of jurisdiction under Article 226 of the Constitution of India.

Accordingly, the present writ petition is dismissed.

August 18, 2015
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(G.S.SANDHAWALIA)
Judge