

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

CWP No.23519 of 2014(O&M)

Date of decision:20.01.2015

Sant Lal

... Petitioner

Vs.

State of Haryana & others

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Harish Nain, Advocate for the petitioner.

....

TEJINDER SINGH DHINDSA, J.

Challenge in the instant writ petition is to the order dated 25.04.2006 at Annexure P-13 passed by the Higher Education Commissioner, State of Haryana in the light of which the claim of the petitioner seeking promotion to the post of Budget Officer/Registrar Education/Assistant Director has not been accepted on the ground that a criminal case is pending against him.

Counsel for the petitioner has been heard.

The uncontroverted facts are that the petitioner had earlier filed CWP No.3514 of 2006 raising the prayer of being considered for promotion to a higher post w.e.f. the date his junior was promoted. Such writ petition was disposed of on 06.03.2006 with a direction to the Higher Education Commissioner, Haryana to take a final decision

on the representation that the petitioner had already preferred and to pass a speaking order within a period of 30 days.

In purported compliance of the directions issued by this Court, the impugned speaking order was passed on 25.04.2006.

Counsel for the petitioner would vehemently contend that on the same very charges which led to the initiation of criminal prosecution, the petitioner had also been proceeded departmentally and in which the charges levelled had been dropped. As such, it is contended that the petitioner has a right to be promoted to a higher post w.e.f. the date his junior has been promoted.

Having heard counsel for the petitioner at length, this Court is of the considered view that the instant petition deserves dismissal on the sole ground of delay and laches.

The impugned order was passed on 25.04.2006. Counsel would concede that such order was communicated to the petitioner immediately thereafter. It has also been conceded that the petitioner retired in the year 2006 itself upon attaining the age of superannuation.

Now, post retirement and after a lapse of more than 8 years, a claim is being raised seeking promotion. Such inordinate delay has gone totally unexplained. In matters of promotion and seniority, the Hon'ble Supreme Court of India in ***P.S. Sadasivaswamyy Vs. State of Tamil Nadu reported as 1975 (1) SCC 152*** had held as follows:

“A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion.

It is not that 'here is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner's petition should, therefore have been dismissed in limine. Entertaining such petitions is a waste of time of the court. It clogs the work of the Court and impedes the work of the court in considering legitimate grievances as also its normal work. We consider that the High court was right in dismissing the appellant's petition as well as the appeal. ”

Following the dictum laid down by the Apex Court in **P.S.**

Sadasivaswamyy's case (supra), the instant writ petition is dismissed on the ground of delay and laches.

20.01.2015

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**