

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP No.24112 of 2015

Maghar Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

2. CWP No.24115 of 2015

Pawan Kumar

... Petitioner

Versus

The State of Punjab and others

... Respondents

Date of Decision: 18.11.2015

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sunny Singla, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

1. This order will dispose of CWP No.24112 of 2015 titled *Maghar Singh vs. State of Punjab and others* and CWP No.24115 of 2015 titled *Pawan Kumar vs. The State of Punjab and others*. The facts are taken from CWP No.24112 of 2015.

2. The claim in this petition is for grant of higher pay-scale for acquiring higher qualification possessed by teachers working in the Punjab Education Department at the time of entry into service. The petitioner retired from service on April 30, 2008. He claims that he passed his B.A.

Part-1 examination on November 30, 1976 after he had secured appointment on ad hoc basis on May 19, 1975. He claims benefit of circular dated July 23, 1957 which relates to the Education Department in Joint Punjab. The petitioner claims the higher grade of Rs.110-250 as revised from time to time to JST teachers in accordance with higher qualifications earned while in service. He says that he deserves to be placed in Category “B” Grade-II of the 1957 circular read with the memo dated July 03, 1995 (P-6) issued by the Director of Public Instructions (S), Punjab. He claims fixation of pay and arrears thereof etc. in view of the letter dated September 20, 1979. Claims arrears along with 18% interest after approaching this Court about eight years from the date of retirement.

3. The writ petition is a narration of the long history of litigation in the aftermath of the 1957 instructions. He says that the question of delay and laches does not arise in his case since pay fixation is a recurring cause of action. The Court can utmost restrict the arrears up to 38 months from the filing of the petition and disallow arrears for which a suit has become time barred. Learned counsel relies on a decision of the Division Bench in an unreported case in *Mohinder Singh and another vs. Union of India and others*, CWP No.735 of 2000 decided on February 06, 2014. The case law cited for claiming parity of treatment were all filed without unreasonable delay. The petition is replete with these cases all filed in the 80s and 90s and some of them even earlier in the 50s, 60s and 70s.

4. The question of delay and laches has been considered recently in a definitive judgment of the Supreme Court and the authority on the point of relief which may or may not be granted in similarly situated cases in

State of U.P. and others vs. Arvind Kumar Srivastava and others, 2015

(1) SCC 347.

5. Today, the Full Bench decision in **Saroj Kumari vs. State of Punjab**, 1998 (3) SCT 664 relied on by the learned counsel would have to be read in the light of the declaration of law in *Arvind Kumar Srivastava* case (Supra).

6. The 1957 Punjab circular is not an eternal fountain sprouting relief even if a person has not approached a court of law for relief and decades has gone by in fence-sitting. The petitioners had plenty of time to agitate their rights while in service or within reasonable time after superannuation but not after 8 years of retirement. No interference is called for in both the petitions. Both the petitions are dismissed as suffering from enormous delay and laches. The claim is too stale to receive a helping hand from the Court. Delay defeats equity. The rigour mortis of laches has set in the body of remedy. Relief has become inaccessible by sheer distance of time.

**(RAJIV NARAIN RAINA)
JUDGE**

18.11.2015
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