

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

**CWP No.25103 of 2015
Date of decision:2.12.2015**

Vasdev Garg ... Petitioner

Versus

The State of Punjab & ors. ... Respondents

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

Present: Mr. H.S. Sirohi, 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.(Oral)

The petitioner retired from service in 2010. The claim in the petition is for seniority over the private respondents, who are 33 in number. They stand promoted to the higher post during the intervening period and some of them have even retired from service. In the opinion of this court it is too late in the day for the petitioner to claim seniority over the private respondents after enormous delay and laches in approaching the court of law. It is a well settled proposition of law that seniority/promotion matters should be agitated within 6 months or at least within 1 year of the accrual of cause of action as illustrated by the Supreme Court in the verdict in **P.S. Sadasivaswamy v. State of Tamil Nadu**, AIR 1974 SC 2271 : 1975 SCR (2) 356. Issues of delay, laches, acquiescence and deemed waiver have been recently explained elaborately by the Supreme Court in the context of similarly situated persons claiming relief on parity with judicial precedents or otherwise

after long delay in taking recourse to law, the ruling being **State of Uttar Pradesh v. Arvind Kumar Shrivastava**, (2015) 1 SCC 347, cf para. 22.2 of report. In view of the settled law, this petition is dismissed on the grounds of delay and laches. It matters little that the request of the petitioner was kept pending and has been rejected in 2015. The cause of action was actionable when the private respondents were promoted to higher posts in the service years ago. This is for the reason that in seniority matters the State should remain neutral without taking sides except to show rule and leave parties to contest seniority and consequential promotion between themselves and therefore dismissal of the representation in 2015 would not revive stale claims or breath fresh life into them as explained in **State of Uttranchal & anr. v. Shiv Charan Singh Bhandari & ors.**, (2013) 12 SCC 179 in the matter of representations. No ground for interference is made out in this petition.

Accordingly, the petition is dismissed at the threshold. However, as prayed for so far as seniority is concerned this petition is dismissed but as far as pension is concerned, the petitioner may seek his available administrative remedies, if any and if advised, which request will be decided in accordance with law, if registered as a protest for justice.

(RAJIV NARAIN RAINA)
JUDGE

2.12.2015
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