

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 557 of 2015 (O&M)

Date of decision: 14.1.2015

EHC Shri Ram

.. Petitioner

v.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. S. S. Dinarpur, Advocate for the petitioner.

...

Rajesh Bindal J.

The petitioner has approached this court impugning the order dated 25.8.2014, whereby his claim for promotion as Exemty Head Constable w.e.f. 1.12.2004 was rejected.

It is not in dispute that the petitioner was promoted as Exemty Head Constable vide order dated 19.8.2009. The petitioner did not raise any issue at that time claiming the promotion from back date, i.e., 1.12.2004, as was sought to be claimed later on. He filed CWP No. 6911 of 2014 claiming that benefit, which was disposed of on 9.4.2014 directing the authorities to consider the representation made by the petitioner. The impugned order has been passed in pursuance thereof. Considering the fact that the petitioner had been promoted as Exemty Head Constable vide order dated 19.8.2009, any grievance with regard to his promotion from a back date could have been raised immediately thereafter. The petition was filed nearly five years thereafter, in which direction was issued for decision of the representation filed by the petitioner. Passing of a speaking order by the authorities in terms of the directions issued by this court, will not condone the delay and laches in raising the grievance regarding claim for promotion from a back date. Cause of action has to be considered from the initial date. Once an order had been passed by the competent authority on 19.8.2009, the same

was required to be challenged thereafter. The issue of delay and laches was considered by Hon'ble the Supreme Court in Union of India and others v. M. K. Sarkar, (2010) 2 SCC 59, wherein it was opined that the issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance to a court's direction. It was further held that neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches.

For the reasons mentioned above, the writ petition is dismissed.

(Rajesh Bindal)
Judge

14.1.2015
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