

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

CWP No. 7076 of 2015
Date of decision: 06.10.2015

Inspector Joginder Pal and others

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Shashikant Gupta, Advocate,
for the petitioners.

G.S.SANDHAWALIA, J. (Oral)

The present writ petition has been filed with various omnibus prayers to grant pay scales to the petitioners who worked as police officials as Sub Inspectors and Inspectors. The claim in the petition is that they have worked on gazetted holidays beyond the normal duty of 8 hours, handling cash disbursement at par with clerks and Assistants, arrears of salary etc. Apart from petitioner no. 5, the petitioners retired beyond a period of 3 years from the filing of the present writ petition. The details are given as under:-

<i>Sr. No.</i>	<i>Name</i>	<i>Date of Joining</i>	<i>Date of Retirement</i>
1	Inspt. Joginder Pal	22.11.1971	31.12.2007
2	SI Baldev Singh	11/07/75	30.11.2011
3	ASI Jagir Singh	17.08.1971	30.11.2007
4	ASI Pritam Singh	24.04.1977	31.05.2009
5	ASI Sudesh Kumar	09/02/76	31.08.2014

Reliance has also been placed upon the judgment of this Court in ***CWP No. 4740 of 1991, Bakshish Singh vs. State of Punjab*** decided on 01.05.2012 (Annexure P-7) to submit that the petitioners are also covered and entitled for the said benefits.

A perusal of the writ petition would go on to show that during the service tenure of the petitioners, no such relief was ever claimed or demand raised before the authorities. The petitioners are thus fence sitters and had never made any such claim during their service period which could have been considered by the authorities. After their retirement, they have made these belated claims.

Counsel for the petitioners has placed reliance upon the representation dated 14.12.2013 (Annexure P-8) wherein, reference to CWP No. 4740 of 1991 has been made. A perusal of the same also would go on to show that it does not even mention who are the applicants and it is totally bereft of any detail. A perusal of the contents also go on to show that the applicants therein claim to be retired constables and Head Constables whereas, in the present case, it is the case of the petitioners themselves that they are retired inspectors and ASIs. Thus, it is apparent that the petitioners have not approached the respondents for any relief but have rushed to this Court without any cause of action. Reliance upon the judgment in CWP No. 4740 of 1991 is also without any basis. In the said case, the said persons had approached this Court in the year 1991 and were successful to get certain directions. As noticed, the petitioners in the present case have not even bothered during their service period to claim any such benefits. It is settled principle that the factum of delay and laches is also to be kept in mind and merely because some benefit has been extended to similarly situated persons, the fence sitters cannot be given the said benefit. Reliance can be safely placed upon observations of the Apex Court in ***State of Uttar Pradesh and others vs. Arvind Kumar Srivastava and others, 2015 (1) SCC 347***. The relevant observations read thus:-

“23. The legal principles which emerge from the reading of the aforesaid judgments, cited both by the appellants as well as the respondents, can be summed up as under:

(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of [Article 14](#) of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

In such circumstances, the present writ petition is dismissed in limine.

06.10.2015

shivani

SHIVANI GUPTA
2015.10.08 15:16
I attest to the accuracy and
integrity of this document
Chandigarh

(G.S. SANDHAWALIA)
JUDGE