

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

I.

Civil Writ Petition No.10703 of 1999

Date of decision: 15.9.2016

Ram Kishan and others

... Petitioners

Versus

The State of Haryana and others

... Respondents

II.

Civil Writ Petition No.12443 of 1999

Sada Nand

... Petitioner

Versus

The State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: None for the petitioner.

Ms.Shruti Jain Goyal, AAG, Haryana

RAJIV NARAIN RAINA, J. (Oral)

This order will dispose of two writ petitions, i.e., CWP No.10703 of 1999 and 12443 of 1999 as common questions of law and fact are involved which can be decided by this common judgment. For convenience, the facts are taken from CWP No.10703 of 1999.

This petition has been brought by the teachers/masters in different Government Schools in Haryana Education Department who had spent intermittent periods of service prior to their regular recruitment, the dates of which are set out in para. 2 of the petition (CWP No.10703 of 1999). They claimed salary for the period of breaks in service from the department but any without success. All of them approached this Court in CWP No.18929 of 1996, titled Chander Bhan Sharma and others v. State of Haryana for their salary for the period after summer vacations and reopening of schools in the next academic sessions. That petition was disposed of with a direction to decide the representation within a time bound period.

In the light of the directions issued by this Court, the impugned order has been passed on 19.6.1998 declining the request. The Director Secondary Education, Haryana has observed in the order that prior to 1985, it was the practice in the department that the teachers working on *ad hoc* basis were relieved at the commencement of the summer vacation and they were given re-appointment on re-opening of the schools after the summer break. Sometimes, re-appointments took time as the candidates had to be appointed on requisitions sent to the Employment Exchange and their names sponsored. As a natural consequence, the teachers had to stay out of employment. Therefore, the officers had thought it fit that the salary for such periods without work is not justified in the eyes of law. Against this adverse order, the petitioners have approached this Court praying that the same be set aside. The question is whether the principle of 'No Work, No Pay' can be applied to such a case where there is no regular pattern emerging in continuous employment between the dates of relieving and re-

appointment. The other aspect for the Court to consider is that the claim in the petition is a purely a money claim for money going back to the period from 1974 to 1980 and in the case of petitioner No.5 in CWP No.10703 of 1999, the period would run from 1981 to 1986. Therefore, even the first approach to the Court in litigation brought in 1986 was barred by time just as would be in a case of money suits brought in a Civil Court of competent jurisdiction claiming a money decree. In these facts and circumstances this court finds no fundamental rights involved for this Court to relax the standards of approach belatedly. Since the rights and claims are of money, then it would be prudent for the writ court not to intervene where the cause of action is stale and the right to sue has long expired. Where the cause of action has expired in bringing a civil suit, a writ will not be maintainable in view of the law in **State of M.P. v. Bhailal Bhai**; AIR 1964 SC 1006. Applying that law, I would dismiss the petition.

(RAJIV NARAIN RAINA)

JUDGE

September 15, 2016

Paritosh Kumar

Whether speaking/reasoned	:	Yes
Whether reportable	:	No