

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

CWP No.20693 of 2011

Date of decision: 11.7.2016

Suresh Kumar & ors.

... Petitioners

Versus

State of Haryana & ors.

... Respondents

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

Present: Mr. DS Nain, Advocate,
for the petitioners.

Ms. Shruti Jain Goyal, AAG, Haryana.

Mr. Parminder singh Kanwar, Advocate,
for respondent No.4.

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

RAJIV NARAIN RAINA, J.(Oral)

1. The petitioners last served Municipal Committee, Pehowa in 1997. They claim that they rendered service during the strike period from January 1, 1997 to March 7, 1997. They have produced copies of experience certificates issued to four of them (Annex P-4 to P-7). No evidence has been placed on record for the remaining respondents, who are 15 in number for court to accept the averment blindly that they also served during the strike period. The present petition has been filed in 2011 basing claim on Annex P-8, P-10, P-12 and P-14. The instructions dated March 21, 2006 (Annex P-9) issued by the State Government to all Deputy Commissioners in the State regarding adjustment of employees in Municipal services who worked during the strike period i.e. 1996-1997 is of no avail to the petitioners. By these policy decisions the Government

withdrew its earlier instructions and created a right for those who could not be adjusted as per Government instructions dated December 20, 1996 and May 5, 1997 by calling upon Municipal Committees/ Municipal Councils to furnish a list of vacant posts where such adjustment could be made. The petitioners claim that posts are still lying vacant as asserted in Annex. P-13 at p.49 of the paper-book which indicates that 84 posts of Sweepers are sanctioned out of which 19 posts are unoccupied where they can be adjusted. The petitioners had worked as Sweepers in Municipal Committee, Pehowa, Distt. Kurukshetra. The petitioners have not litigated ever since their services were terminated in 1997 or at any time thereafter or even after the issuance of instructions dated March 21, 2006 and have approached this Court after almost two decades claiming jobs by way of reinstatement to service.

2. The Municipal Committee, Pehowa has filed written statement and contested the case. They have disputed that the petitioners ever worked during strike period as claimed by them and therefore, the question is a seriously disputed one fact and cannot be resolved in writ jurisdiction. The respondents have raised the issue of delay and laches and limitation and have pleaded that no special circumstances exist to grant relief or in explanation of sufficient reasons for the delay. Delay there is in this case, but worst than mere delay, the petition suffers from laches as the petitioners have slept over their rights, if any, for many years and yet expect that the Court of equity to lean in their favour and grant them relief by issuing suitable directions to the respondents. The respondents assert that the instructions dated April 24, 2001 have

effectively been put to an end, nullifying all claims of 'adjustment' when Government had deprecated in the policy circular, the process of forwarding the names of persons for employment under the instructions dated April 6, 1998 after long unexplained and unreasonable delay despite the fact that the names of the employees were not even available in the list of employees engaged during the strike period as prepared by the respective Municipalities. The instructions were issued to prevent misuse of public posts. It is asserted in para. 3 of the written statement that the State Government has issued another policy letter dated March 19, 2007 to all the Municipalities and thereby conveyed its decision not to readjust the employees who worked in the Municipalities during the strike.

3. I find no error in the decision of the Government/or the Municipal Committee, Pehowa, not to offer appointment to the petitioners. Neither is the municipality obliged to offer appointments by adjustment under instructions which stand superseded nor have the petitioners any right to appointment since the policy letter dated March 19, 2007 extinguishes all rights of claimants. Merely because posts are lying vacant does not confer any right on the petitioners as claimed.

4. For the foregoing reasons, I find no substance in this petition, which is devoid of merit and is accordingly, dismissed. No costs.

(RAJIV NARAIN RAINA)
JUDGE

11.7.2016
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