

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 17211 of 2016 (O&M)

Date of Decision: 24.08.2016.

Rachna Ram

--Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd.
and another

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. J.K. Goel, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J

Petitioner assails the order dated 19.7.2016 (Annexure P-8), passed by the General Manager/Admn., U.H.B.V.N. Ltd. in terms of which his claim seeking ante dated promotion to the post of Assistant Engineer w.e.f. 12.8.1985 and at par with his junior namely Sh. O.P. Chhabra, has been declined.

Pleadings on record would indicate that the petitioner belongs to the B.C category and had joined on the post of Line Superintendent in the year 1969 with the erstwhile Haryana State Electricity Board. The nomenclature of the Line Superintendent has since been changed to that of Junior Engineer. Sh. O.P. Chhabra was granted promotion as J.E.-I in May, 1979. Petitioner was granted benefit of reservation on account of his belonging to the B.C category and vide order dated 15.12.1995 he was granted a deemed date of promotion to the post of J.E.-I w.e.f. March, 1979. In pursuance to such benefit having been accorded his name was reflected in the seniority list of J.Es at Sr. No.373-A, whereas the name of Sh. O.P. Chhabra was reflected at Sr. No.375. Undisputedly, Sh. O.P. Chhabra was promoted as Assistant Engineer on 12.8.1985.

The facts noticed herein above would make it clear that on the date of issuance of order dated 15.12.1995 when the petitioner was given a deemed date of promotion as J.E from March, 1979, Sh. O.P. Chhabra had already been promoted to the post of Assistant Engineer and as such, the cause of action had accrued to the petitioner to also claim promotion to the post of Assistant Engineer w.e.f. the same date i.e. 12.8.1985. Petitioner, however, was promoted as Assistant Engineer on 17.12.2004 and he retired in the year 2008 upon attaining the age of superannuation.

Counsel would submit that the petitioner had submitted a representation first in point of time in the year 1996 for claiming promotion to the post of Assistant Engineer w.e.f. 12.8.1985 and the same was followed up by another representation filed in the year 2003. It is further submitted that post retirement the petitioner had filed CWP no.14511 of 2015 and which was disposed of vide order dated 22.7.2015 by directing the respondent authorities to take a final decision on his legal notice dated 19.2.2015. Precise argument raised is that delay *per se* cannot defeat the claim of the petitioner as his representation had been filed way back in the year 1996 and which remained pending and thereafter even this Court had intervened on 22.7.2015 in CWP No.14511 of 2015 directing the respondent-Nigam to take a final decision on his legal notice.

Having heard learned counsel for the petitioner at length, this Court is of the considered view that the claim raised by the petitioner is time barred and the writ petition suffers from vice of delay and laches.

In ***P.S. Sadasivaswamyy Vs. State of Tamil Nadu, AIR 1974 SC 2271***, the Hon'ble Supreme Court had clearly observed that a person aggrieved of an order of promotion of a junior would be obligated to

approach the Court within a period of six months or at the most within a period of one year.

In the facts of the present case, even if, a representation had been filed by the petitioner in the year 1996 and the same had not evoked any response, it was imperative for the petitioner to have agitated his claim before the competent court of law soon thereafter. Petitioner was promoted as Assistant Engineer in the year 2004 and retired in the year 2008. Cause of action to claim promotion to the post of Assistant Engineer w.e.f. 12.8.1985 and at par with Sh. O.P. Chhabra had accrued to the petitioner on 12.8.1985 itself. Petitioner chose not to agitate his claim and grievance in court all this while. Even though, he had filed CWP No.14511 of 2015 and which was disposed of on 22.7.2015 with a direction to the respondent-Nigam to take a final decision on his legal notice but the same cannot be construed to mean that this Court had condoned the issue as regards delay.

The petitioner cannot be permitted to agitate a claim as regards promotion in the year 2016 post his retirement and with regard to a promotional post w.e.f the year 1985 as the same would amount to disturb a settled position in matters of promotion and seniority.

This Court, as such, does not find any infirmity in the impugned order dated 19.7.2016 (Annexure P-8), whereby claim of the petitioner stands rejected on the ground of delay and laches as well.

Petition, accordingly, is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

24.08.2016

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Whether speaking/reasoned: Yes
Whether Reportable: No