

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CWP No.20449 of 2015 (O&M)
Date of Decision: 18.01.2016**

Bhim Raj

... Petitioner

Versus

The Punjab Water Resources Development
and Management Corporation Ltd.,
Chandigarh and others

... Respondents

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

Present: Mr. Surinder Garg, Advocate,
for the petitioner.

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

RAJIV NARAIN RAINA, J.

1. The petitioner does not dispute that while he worked as a Junior Draftsman in the Corporation, he was in the pay-scale of Rs.1200-2100 till 2007 when he was promoted as a Draftsman in the higher pay-scale of Rs.5800-9200 (unrevised).

2. The claim in this petition is for grant of higher pay scales as a Junior Draftsman i.e. prior to 2007. He has no case for the reasons that follow. The petitioner may have made representations on his grievance to the competent authority for redressal earlier but has approached court for the first time in CWP No.5987 of 2014 seeking directions to the respondents to grant him the pay-scale of Junior Draftsman. The petition was disposed of on April 22, 2014 with a direction to the respondent Corporation to decide the legal notice (P-5) preferably within three months from the date of

receipt of certified copy of the order. In pursuance to those directions, the impugned order has been passed on September 29, 2014 declining his request. The delay has been explained by reason of time spent collecting information sought from concerned quarters to decide the dispute. The claim of the petitioner has been rejected on the ground that the petitioner can only be entitled to pay-scales according to those fixed in the Bye-Laws of the Corporation. The petitioner's claim for higher pay-scales on the basis of similarly situated persons having been granted the benefit working in Punjab Government departments has not been found tenable on account of different departments having different working conditions. The petitioner was a corporation employee and not a State servant. Presently, the claim is also based on a decision rendered by this Court in CWP No.9367 of 1993 decided on July 22, 2013 where this Court considered issue involving Junior Draftsmen employed in a Government department. While granting relief to Junior Draftsmen the Court based its order applying just and equitable principles to grant relief and by also applying the rule of "equal pay for equal work" and the petitioners pay was brought on par with other employees of other Departments. The order was based on principles of amelioration on the fate of the Junior Draftsman in lower pay-scale. However, while disposing of the petition, the learned Single Judge placed a rider as follows:-

"It is made clear that since the employees of the other Departments who may have sought parity along with petitioners have not approached this Court, hence this judgment would not apply to any other class of similarly situated employees."

3. The petitioner works in the Punjab Water Resources

Development and Management Corporation Ltd. and cannot claim parity of pay with Junior Draftsman in other Departments of the Government, the Corporation being an autonomous body governed by its own Bye-Laws in matters including pay. It is not the case that pay scales attached to posts of Junior Draftsman in different departments of the Government have been adopted by the respondent Corporation. A claim of the kind made in this petition to succeed has to be backed by clear-cut and lucid facts and in absence of rules or instructions is not sustainable in the abstract.

4. The other reason why this petition deserves dismissal is that it suffers from delay and laches. The cause of action, if any, and assuming it did and was well founded, arose in the year 2007. The petitioner approached this Court in the year 2013 after a delay of about six years. There is no satisfactory explanation in the petition for the belated approach. Non-statutory representations made before that by the petitioner to claim higher pay scales do not furnish a fresh cause of action. Neither can orders passed by this Court while merely directing representations to be decided be construed as creating fresh cause of action in favour of the petitioners and they would not save the period of limitation or revive a stale or dead claim. Mere submission of a representation does not arrest time. See **State of Uttaranchal & Anr. v. Shiv Charan Singh Bhandari**, (2013) 12 SCC 179 wherein the Supreme Court while relying on its earlier dicta in **Union of India v. M.M.Sarkar**, (2010) 2 SCC 1126 held:-

“14. In Union of India and others v. M.M.Sarkar, this Court, after referring to C. Jacob (supra) [cf. (2008) 10 SCC 115] has ruled that when a belated representation in regard to a “stale” or “dead” issue/dispute is considered and decided, in compliance with a direction by the

court/tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the “dead” issue or time-barred dispute. 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 with a court’s direction. 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.”

15. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action.”

5. For these reasons, no merit is found in the petition warranting interference and the same is ordered to stand dismissed in limine.

(RAJIV NARAIN RAINA)
JUDGE

18.01.2016
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