

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 21586 of 2016
Date of decision:19.10.2016

Suresh Kumar

... Petitioner

Versus

State of Haryana & ors.

... Respondents

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

Present: Mr. Subhash Ahuja, Advocate
for the petitioner.

RAJIV NARAIN RAINA, J.(Oral)

The petitioner is a Laboratory Attendant promoted in the year 1996 as against his junior who was promoted in 1991 both from the Class IV source of Peons within the quota admissible to them. The relief claimed would rest on award of two or three increments by virtue of claim based on parity of pay with the junior Bala Dutt/4th respondent.

Mr. Ahuja submits on point of delay that the seniority list has not been issued or circulated in District Sonapat where the seniority of the petitioner and the 4th respondent are determined. He submits that his client has a constitutional right to the increments under Article 300-A akin to property with the monetary benefit coming from the State Exchequer on account of public employment. He further submits that he has a right which is also fundamental in nature based on equal opportunity principles under Article 16 and both the provisions are interwoven the petition is not open to be dismissed at the threshold on the jejune ground of delay and laches because relief can be moulded and modulated.

He submits that the relief should be first addressed by the department as when a fair decision is taken by the authorities it may avoid

adversarial litigation and therefore, Mr. Ahuja submits that he would be satisfied on behalf of his client if a direction is issued to respondent No.2 to consider and decide the petitioner's legal notice dated January 10, 2015 (Annex P-10) which has not evoked any response from the department for a long period of time and thus, time bound directions be issued to the respondents to decide the said legal notice in accordance with law. The prayer is reasonable and is accepted.

As a result, a direction is issued to respondent No.2 to consider and decide the legal notice at Annex P-10 by passing a speaking order, which will be drawn within 6 weeks from the date of receipt of certified copy of this order. Needless to mention that if relief deserves to be granted, there would be no necessity for the competent authority to pass an order in writing containing reasons and relief can be regulated by office orders. However, if an adverse order is to be passed, the necessity of recording reasons and affording an opportunity of hearing to the petitioner would arise and would be necessary. In case, the relief is grantable, then it may be restricted to 36 months from the date of filing of this petition which bears the date October 17, 2016.

With the above observations and directions, the petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

19.10.2016
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>