

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.22796 of 2016

Date of Decision: 07.11.2016

Surjit Singh and another

... Petitioners

Versus

State of Haryana and others

... Respondents

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

Present: Mr. Sandeep Singal, Advocate,
for the petitioners.

RAJIV NARAIN RAINA, J.

1. This petition deserves to be dismissed on grounds of delay and laches. A claim has been made for antedated regularization and seniority from the date of appointment in 1995. The grievance has been brought to court after 21 years. The foundation of the claim is based on earlier instituted proceedings filed by similarly placed persons in 2012 in this Court, which petition was disposed of with a direction to the respondents to consider and decide pending representation filed by those persons. In the exercise done by the department in implementation of the order, the petitioners therein may have secured benefit but to which the present petitioners would not be entitled to the relief flowing automatically from those orders on ground of unexplained laches in the belated approach. The petitioners have disentitled themselves to relief due to gross negligence in seeking remedy. The ouster of right is due to the first exception carved out by the Supreme Court in State of U.P. and others vs. Arvind Kumar

Srivastava and others, 2015(1) SCC 347 to the general rule of parity of treatment for fence-sitters who have waived their rights for long and acquiesced to a state of things and this case would thus not come within the general rule. They have ceased to be similarly situated for purposes of obligations in Article 14 of the Constitution of India, the right claimed being not fundamental in nature.

2. The petitioners neither have represented to the authorities nor approached this Court within reasonable time and to the contrary there is humongous delay without showing sufficient cause for their late arrival and by their conduct and inactivity have thereby missed the bus. In the garb of retrospective regularization, the petitioners are actually claiming antedated seniority, which appears to be the hidden agenda. There is nothing wrong in making such a claim but the remedy stands extinguished even if the right subsists and the writ court would refuse to countenance the claim to certiorari or mandamus.

3. Still further the orders passed by this Court directing respondents to decide the representation do not confer limitation or postpone the cause of action for which legal proposition, see Union of India and another v. M.M. Sarkar, (2010) 2 SCC 1126 and C. Jacob v. Director of Geology & Mining of Ministry and Anr., (2009) 10 SCC 115. There is another judgment which the petitioners can read profitably to convince themselves that there had no case in this Court is in State of Uttaranchal and another v. Shiv Charan Singh Bhandari and others, (2013) 2 SCC 179. If the hidden claim is for seniority then this petition should be dismissed also on account of the cautionary law and guidelines laid down by the Supreme

Court in P.S. Sadasivaswamy vs. State of Tamil Nadu, AIR 1974 SC 227 that in matters of seniority, the approach should be at least six months if not later than one year from the date of accrual of the cause of action.

4. It is brought to the notice of this Court that petitioner No.1 had filed a civil suit in courts at Rohtak claiming the same relief and he withdrew it to file this petition, obviously because he must have been advised that the suit is barred by time and would fail. What the petitioner No.1 could not achieve in his suit will not be permitted to be achieved in writ proceedings. The slothful and the indolent, the laid-back, the procrastinators and those not pledged to legal pursuit have no place in this court or in the scheme of active justiciable rights brought within reasonable time are seen as persons who have renounced their rights.

5. The petition is not worthy of entertainment and hereby stands dismissed in limine.

(RAJIV NARAIN RAINA)
JUDGE

07.11.2016

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Whether speaking/reasoned Yes

Whether reportable Yes