

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.24586 of 2016

Date of decision: 30.11.2016

Joginder Singh

... Petitioner

Versus

State of Haryana & ors.

... Respondents

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

Present: Mr. MS Kathuria, Advocate for
Mr. Parveen Bhardwaj, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.(Oral)

The office order passed on June 11, 2007 promoted the petitioner to the post of Inspector (Audit) with immediate effect but not with effect from November 2, 1998; the claimed date, is under challenge in this petition brought in November, 2016. The consequential prayer is that with retrospective promotion the seniority of the petitioner be re-determined and fixed antedated from November 2, 1998 and thereby he be promoted as an Audit Officer from September 7, 2012 on the ground that persons juniors to him have been promoted to the said post on that date. On facts, it is asserted that the petitioner has spent 8 years in judicial custody on conviction by a criminal court on a criminal charge. However, the period of incarceration cannot be excluded or written off the face of inordinate delay and laches when the petitioner failed to seek legal redress by availing of his remedies in reasonable time. Even if he was in jail, his rights to approach court were not extinguished and certainly not his civil rights relating to seniority and service matter. The petition suffers from extraordinary delay and laches. If a suit was brought

on the same cause of action, the learned counsel admits that it would be barred by limitation. Therefore, it would not be appropriate exercise of jurisdiction under Article 226 of the Constitution to intervene in view of the law settled by the Supreme Court in State of Madhya Pradesh v. Bhailal Bhai, AIR 1964 SC 1006. Where limitation for filing a suit in a civil court has apparently run out, a writ petition would not be entertained when fundamental rights are not involved. Moreover, disputes as to seniority and promotion should normally be agitated within 6 months or at best a year of the perceived infraction of right or civil injury that an order may cause.

Dismissed on grounds of humongous delay and unexplained laches.

(RAJIV NARAIN RAINA)
JUDGE

30.11.2016
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>