

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of decision: 25.04.2016

CWP No.5049 of 2016

Naginder Singh & others

...Petitioner

Vs.

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Nitesh Singhi, Advocate, for the petitioner.

RAJIV NARAIN RAINA, J. (ORAL)

Absolutely, no interference is called for in this petition filed by persons who have retired from service on different dates ranging from 2004 to 2012 on the writ side in a claim for money brought to this Court for the first time in the present petition in the year 2016.

In view of the law in State of Uttar Pradesh & others Vs. Arvind Kumar Srivastava & others, (2015) 1 SCC 347 stated in para.23(2), this petition deserves to be dismissed for fence-sitting and letting time slip by. Any of the judgments cited passed in favour of the similarly situated persons in writ petitions filed in the year 2006 would be of no avail to the petitioners to circumvent bars of delay, laches and the statutorily prescribed periods of limitation disentitling award of relief in exercise of discretionary jurisdiction. The decomposed claim which is in the nature of a mere claim for recovery of money is apparently barred by time.

As far as the request for issuance of directions to the respondents to consider and decide the representation filed is concerned the same would

have to be rejected in view of the law declared by the Supreme Court in State of Uttranchal & another Vs. Shiv Charan Singh Bhandari, (2015) 3 SCC 467 reminding that non-statutory representations do not create a fresh cause of action. Stale claims cannot be resuscitated by representations, repeated or solitary, soliciting decisions thereon to attempt at rewinding the clock of the cause of action to make it tick again. These memorials do not postpone the cause of action when the right to sue does not survive. In Union of India Vs. M.K.Sarkar, (2010) 2 SCC 1126, the Supreme Court observed:

“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. A Court or Tribunal, before directing ‘consideration’ of a claim or representation should examine whether the claim or representation is with reference to a ‘live’ issue or whether it is with reference to a ‘dead’ or ‘stale’ issue. If it is with reference to a ‘dead’ or ‘stale’ issue or dispute, the court/Tribunal should put an end to the matter and should not direct consideration or reconsideration. If the court or Tribunal deciding to direct ‘consideration’ without itself examining of the merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and laches. Even if the court does not expressly say so, that would be the legal position and effect.”

That apart, way-back in the 60s the Supreme Court in State of Madhya Pradesh & another Vs. Bhailal Bhai, AIR 1964 Supreme Court 1006,

held that the provisions of the Limitation Act do not as such apply to the granting of relief under Article 226, however, the maximum period fixed by the Legislature as the time within which relief by a suit in a civil court must be brought, may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured. Further, the view taken was that Court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy, but where the delay is more than this period, it will almost always be proper for the Court to hold that it is unreasonable.

Another deterrent to interference in the present case claiming interference as a matter of right is that the rights, if any, as are pressed in the petition are not based on oppressive infringement of fundamental rights, which if they were, may have kept the right to sue alive even after long lapse of time as State could then be seen bound to honour them to preserve constitutional standards in governance as a model employer to prevent hostile discrimination.

As a result of the foregoing reasons, the present writ petition is found lacking in merit and maintainability and is hereby dismissed.

[RAJIV NARAIN RAINA]
JUDGE

25.04.2016
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