

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 9869 of 2014
Date of Decision: 1.12.2016

Ram Bahadur @ Ramu

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present: Mr.Dilbagh Singh, Advocate for the petitioner

Mr.R.K.Doon, AAG, Haryana

RAJIV NARAIN RAINA, J. (Oral)

1. The services of the petitioner were regularized in 1994 in the hay days of *Piara Singh* case on the principle of completion of 240 days as a Labourer. The petitioner took no steps thereafter to get his perceived wrong of yester years corrected and started to file repeated representations after a lapse of 21 years at the end of the year 2012. The petitioner was informed vide letter dated 26th February, 2014 (Annex. P-5) that his services were regularized w.e.f. 1st April, 1993. This order did not create a fresh cause of action and was merely intended to inform the petitioner of the fate of his case closed long ago. The petitioner has approached this Court for the first time in the present writ petition claiming antedated regularization w.e.f. 1st July, 1987 [not 1st April, 1993] with all consequential benefits, including arrears of difference of salary etc. He wants that his period prior of service upto 1st April, 1993 should also be counted for regularization of his services to make it run from the very beginning. Cause of action goes back to the date when the order was passed regularizing his services w.e.f. 1st April, 1993. In 2014 the petitioner had long crossed the bar of limitation in case a civil suit was filed with the period of three years expiring from the date

the order was passed i.e. till 1997. There is no explanation in the writ petition as to why the petitioner did not approach the Court earlier, and therefore, his claim suffers from laches. Delay, there is of 21 years. The petitioner should have been made understand before filing the petition that the doctrine of laches means negligence in pursuing legal remedies and if not resorted in right time, the same might remain a right but the remedy would stand extinguished.

2. If the petitioner rests his claim on writ petitions filed by other people who obtained favourable orders, then he was not a party to those petitions and he would be seen as a fence-sitter, as described in State of U.P. and others vs. Arvind Kumar Srivastava and others, 2015 (1) SCC 347 and the Court would be very reluctant to act in his favour and ignore two decades of somnolence. If the case rests on repeated representations, then repeated representations do not create a fresh cause of action and there is sufficient case law on the subject which need not be cited on the point.

3. The services of the petitioner have been regularized w.e.f. 1st April, 1993 and this issue rests content with the benefit granted in terms of the judgment in State of Haryana and others vs. Piara Singh and others, AIR 1992 SC 2130: (1992) 1 SCC 118 which has been declared bad law and over-ruled in Secretary, State of Karnataka vs. Uma Devi, (2006) 4 SCC 1. The decision is also applicable to the case of the petitioner and the claim cannot be revised to put regularization any further backward than 1st April, 1993.

4. If the complaint is that juniors to the petitioner have secured benefits over and above him, even then he cannot be granted benefit because of delay, laches and bar of limitation. It is well settled that where a suit is barred by limitation, a writ would not lie. See Constitution Bench in State of M.P. vs. Bhailal Bhai, AIR 1964 SC 1006. Even if it is admitted arguendo that juniors have

principle of equality in Article 14 of the Constitution of India when the right claimed as to retrospective regularisation in this petition is not a fundamental right, but merely a civil right. Delay can be excused only in the presence of active fundamental rights infringement where a citizen is deprived of valuable rights, then courts can ignore or relax delay, laches and limitation to serve the demands of equality before the law and equal protection of the laws. In any case, grant of such a right as claimed at this belated stage will result in re-ordering and re-fixing seniority of so many past and present members of the service. So far as grant of ACP is concerned, it would further complicate the matter in case of interference and add fuel to administrative chaos. The writ court cannot pass such an order which creates uncontrollable administrative chaos, without any reasonable justification which the court will be hard pressed to manage in offshoot litigation by those who were not heard and are not parties in case the petition is allowed ex parte third party rights.

5. In view of the above, the writ petition is devoid of merit from all angles and therefore fails and is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

1.12.2016
MFK

Whether speaking/reasoned

Yes

Whether Reportable

No