

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

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**LPA No.1764 of 2015 (O&M)**

**Date of Decision: 19.05.2016**

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Virender Kumar & Ors

... Appellants

VS.

State of Punjab & Ors.

... Respondents

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**CORAM: HON'BLE MR.JUSTICE SURYA KANT  
HON'BLE MR.JUSTICE A.B. CHAUDHARI**

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Present: Mr. DS Patwalia, Senior Advocate with  
Mr. Salil Sabhlok, Advocate for the appellants

Mr. DS Sobti, Addl. AG Punjab

Mr. Gurminder Singh, Senior Advocate with  
Mr. RPS Bara, Advocate for respondents No.3 to 10

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**SURYA KANT, J. (Oral)**

(1) This Letters Patent Appeal assails the order dated 18.11.2015 whereby learned Single Judge dismissed the appellants' writ petition primarily on account of delay and laches and has also imposed cost of ₹5000/- on each appellant. The controversy pertains to promotion in the cadre of Senior Assistants from amongst the Clerks working in Punjab Civil Secretariat.

(2) Shorn of the details, suffice it to mention that the first appellant along with eleven other Clerks/Junior Assistants filed CWP No.1887 of 2001 in this Court challenging the promotion of Senior Assistants made vide order dated 26.07.2000 and 02.02.2001.

(3) The aforesaid writ petition was decided on 23.08.2002, issuing comprehensive directions to the State Government for promotion of 'qualifier' and 'exemtees' in the prescribed ratio of 70:30 and left out vacancies to be filled in as per Punjab Civil Secretariat (State Service Class-

(4) The State of Punjab preferred SLP against the above-stated order in which no *ad interim* stay was granted by the Hon'ble Supreme Court. Resultantly, the State Government decided to implement the High Court decision: it did so vide order dated 15.06.2004 which was superseded by the subsequent order dated 09.08.2006.

(5) The above-stated writ-petitioners (Varinder Kumar & 11 other Clerks) meanwhile filed COCP No.828 of 2004 but on issuance of the above-mentioned order dated 09.08.2006, the Contempt Petition was permitted to be withdrawn on 26.04.2007 "with liberty to challenge the order dated 19.08.2006 [*sic* 09.08.2006], if need so arises in an appropriate proceedings".

(6) It is an admitted fact that no writ petition or any other proceedings were initiated challenging the order dated 09.08.2006 (P6).

(7) The SLP preferred by the State of Punjab against the decision of this Court dated 23.08.2002 was finally dismissed on 02.04.2014 as per the following order:-

*"We have heard the learned counsel appearing for the parties and have carefully gone through the impugned judgement dated 23<sup>rd</sup> August, 2002, passed by the Punjab & Haryana High Court at Chandigarh in C.W.P.1887 of 2001.*

*In our opinion, the High Court has duly considered the judgement delivered in the case of Saroj Rani & Ors. vs. State of Punjab & Ors., [(1996) 6 SCC 637] and, therefore, we see no reason to interfere with*

*the judgement delivered by the High Court.*

*Accordingly, the appeal is dismissed with no costs.*

*We are sure that the Appellant-State shall do the needful for implementation of the impugned judgement as soon as possible.”*

(8) After the dismissal of SLP, the appellants are said to have represented the State Government to give effect to the decision of this Court in **Virender Kumar and other** case and to grant them retrospective promotion. The State Government rejected their representation vide order dated 16/17.07.2014 (P10) on the ground that the decision of the High Court in **Virender Kumar and other** case already stood implemented by it on 15.06.2004 as modified/superseded vide order dated 09.08.2006 and that no further action to give effect to the directions issued by the Hon’ble Supreme Court was required to be taken.

(9) The above-stated order came to be challenged by the appellants before the learned Single Judge and as noticed at the outset, their writ petition has been dismissed primarily on the ground of delay and laches.

(10) We have heard learned counsel for the parties and gone through the record.

(11) We are in agreement with the learned Single Judge that the appellants’ writ petition was highly belated. We say so for the reason that the State Government admittedly implemented the judgement of this Court in **Virender Kumar and other** case in the manner as it understood, firstly vide order dated 15.06.2004 which was superseded vide order dated 09.08.2006.

(12) It is true that the said order was issued subject to the final outcome of the SLP but such a rider had to be imposed as the matter was pending before the Apex Court. If the appellants were dissatisfied with the manner in which the State Government implemented the judgement in **Virender Kumar and other's** case, they ought to have challenged the order dated 09.08.2006 within some reasonable period. It deserves special mention that the appellants withdrew the contempt proceedings with liberty to challenge the order dated 09.08.2006 in appropriate proceedings but they failed to do so without any explanation. The appellants thus themselves allowed the grass to grow under their feet. The promotions made in the year 2006 are operative for almost 8 years. It was too late to lay challenge to those promotions in the year 2014.

(13) Consequently, we decline to interfere with the order of learned Single Judge dated 18.11.2015 except to the extent of imposing cost of ₹5000/- per person on the appellants. In the light of the facts and circumstances noticed above, there is hardly any compelling reason to impose costs on the appellants. The order under appeal, to that extent, is thus set aside. The cost amount, if already deposited by the appellant(s) is ordered to be refunded to them.

(14) With these directions and observations, the appeal stands disposed of.

**(Surya Kant)**  
**Judge**

**19.05.2016**  
*vishal shonkar*

**(A.B. Chaudhari)**  
**Judge**