

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.1458 of 2016 (O&M)

Date of Decision: 12.08.2016

Naginder Singh & Ors.

... Appellants

VS.

State of Punjab & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

1. Whether Speaking?

Yes / No

2. Whether Reportable?

Yes / No

3. Whether Reporters of local papers may be allowed to see the judgment?

Yes / No

4. To be referred to the Reporters or not?

Yes / No

5. Whether the judgment should be reported in the Digest?

Yes / No

Present: Mr. Nitesh Singhi, Advocate for the appellants

SURYA KANT, J. (Oral)

(1) This Intra-Court Appeal is directed against the order dated 25.04.2016 whereby the appellants' writ petition (filed in the year 2016) challenging the order dated 10.10.2005 of their reversion from the post of Inspector to that of Junior Assistants/Clerks after withdrawing the Current Duty Charge (CDC), has been dismissed, primarily on the ground of delay and laches.

(2) The facts may be briefly noticed. The appellants joined the Municipal Corporation, Ludhiana as Clerks on different dates between the years 1969 to 1978. Some of them were promoted/re-designated as Junior Assistants also.

(3) While working as Junior Assistants/Clerks they were deployed on Current Duty Charge basis as Inspectors in their own pay-scales and without prejudice to the final decision in the seniority dispute between the Meter Readers and the Clerical cadre. On 10.10.2005, the Commissioner, Municipal Corporation, Ludhiana passed the impugned order in compliance

07.07.2005 for withdrawal of CDC wherever it had been given by the Municipal Corporations. Resultantly, the appellants were asked to work on their substantive posts.

(4) Some of the affected persons approached this Court through CWP No.16708 of 2005 challenging the order of withdrawal of their CDC. That writ petition was allowed in part on 24.01.2014 to the extent that the writ petitioners were held entitled for **“higher pay scale for the period when they were holding the higher post on current duty charge as Inspector”**.

(5) Two years after the above-cited decision was rendered, the appellants also woke up and filed the writ petition questioning the order dated 10.10.2005 and sought arrears of pay of the higher post held by them before passing the said order.

(6) Learned Single Judge has rejected the appellants' claim observing as follows:-

“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.”

(7) Fully alive of the fact that in the matter of infringement of fundamental rights, there can be a deviation from the above-quoted principle, learned Single Judge further observed that :-

“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.”

(8) We have heard learned counsel for the appellants at a considerable length and gone through the record. No meaningful argument could be advanced as to why the appellants did not challenge the order dated 10.10.2005 within a reasonable period. The decision of this Court dated 24.01.2014 granting emoluments on the higher post to those who approached the Court in the year 2005 neither gave rise to any cause of action in favour of the appellants nor it revived such cause which the appellants themselves abandoned. The appellants are amongst the fence sitters who themselves allowed the grass to grow under their feet. Therefore, learned Single Judge has rightly declined to entertain their obsolete and stale monetary claim which surely has not emanated out of Articles 14 or 16 of the Constitution.

- (9) No case to interfere with the order under appeal is made out.
- (10) Dismissed.

(Surya Kant)
Judge

12.08.2016
vishal shonkar

(Sudip Ahluwalia)
Judge