

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

**CWP No. 4048 of 1999
Date of Decision: 20.03.2017**

Sadhu Singh

...Petitioner

Versus

The Punjab State Electricity Board & Others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- None.

JAISHREE THAKUR, J. (Oral)

The instant writ petition has been filed with a prayer to consider the case of the petitioner for promotion as Assistant Executive Engineer and further to promote the petitioner as Senior Executive Engineer on completion of 10 years' service prior to respondents No. 2 to 6 and to fix the petitioner in the seniority list of Assistant Executive Engineer of the Punjab State Electricity Board above respondents No. 2 and 3.

2. It is contended that the petitioner joined service in the year 1966 as Junior Engineer with Punjab State Electricity Board. Respondent No. 2 was appointed as Junior Engineer with the respondent-Board but later on he qualified Sections A and B of AMIE and came to be promoted as Assistant Engineer in the year 1977 and was assigned seniority at Sr. No. 2383 whereas the petitioner was assigned seniority as Assistant Engineer at Sr. No. 2382. Respondent No. 2 was then promoted as Assistant Executive Engineer on 29.05.1984 while the petitioner was promoted as Assistant Executive Engineer on 10.12.1985. Thereafter, respondent No. 2 was promoted as Senior Executive Engineer on 14.12.1998. Both respondents No. 2 and 3 were promoted as Senior Executive Engineer prior to that of the petitioner who was admittedly senior to both of them. Aggrieved, the instant writ petition has

been filed seeking to challenge the order dated 14.12.1998 by which the persons junior to the petitioner were promoted on the post of Senior Executive Engineer.

3. The instant writ petition came up for hearing and was admitted subject to the objections regarding delay as taken in the written statement.

4. The matter is being taken up today for hearing but there is no representation on behalf of either of the parties despite communication having been addressed to Sh. Sukhbir Singh, Advocate.

5. By way of this writ petition which was filed in the year 1999, the petitioner is seeking to challenge the seniority that was given to respondent No. 2 in the year 1984. Even the order by which the writ petition was admitted noted the fact that there was delay in approaching the Court. In fact, the petitioner, though had entered in service earlier to the private respondent, was put at Sr. No. 2382 in the year 1977. Subsequent to that, the private respondent herein were given promotion on the post of Assistant Executive Engineer on 29.05.1984 and Senior Executive Engineer on 14.12.1998. The cause of action accrues to the petitioner to challenge the seniority and claim promotion being senior in the year 1977 when respondent No. 2 was promoted on the post of Assistant Executive Engineer in the year 1984. In fact, the writ petition is hit by the doctrine of delay and laches.

6. The Hon'ble Apex Court in *P. S. Sadasivaswamy Vs. State of Tamil Nadu 1976(1) SLR 53* has held that the writ petition is to be filed within six months or at the most in a year for relief in service matter and stale claims cannot be entertained. The relevant observation reads as under:

“2.not only respondent 2 but also respondents 3 and 4 who were the appellant's juniors became Divisional Engineers in 1957 apparently on the ground that their merits deserved their promotion over the head of the appellant. He did not

question it. Nor did he question the promotion of his juniors as Superintending Engineers over his head. He could have come to the Court on every one of these three occasions. A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extra-ordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put for-ward stale claims and try to unsettle settled matters- The petitioner's petition should, therefore have been dismissed in limine. Entertaining such petitions is a waste of time of the court. It clogs the work of the Court and impedes the work of the court in considering legitimate grievances as also its normal work. We consider that the High court was right in dismissing the appellant's petition as well as the appeal.

3. This appeal is dismissed with costs.”

7. The Hon'ble Apex Court in *P. Chitharanja Menon Vs. A. Balakrishnan 1977(2) SLR 289* held that where the earlier order has not been challenged then the subsequent order could not be made basis of the cause of action. In the present case once the earlier seniority list had been circulated in the year 1980 and 1985 and the petitioner had failed to object the same, he cannot get a fresh cause of action on the circulation of fresh seniority list in the year 1988. The Hon'ble Apex Court in *Shiba Shankar Mohapatra Vs. State of Orissa 2011 (1) RSJ 624* has held that in seniority matters, delay should not be beyond a period of 3 years and the reasons for not approaching the Court should

be explained. In the present case, the explanation given by the petitioner that he only came to know of the respondent being junior when he was posted in the establishment branch cannot be accepted. The relevant observation reads as under:

“29. Thus, in view of the above, the settled legal proposition that emerges is that once the seniority had been fixed and it remains in existence for a reasonable period, any challenge to the same should not be entertained. In K.R. Mudgal (supra), this Court has laid down, in crystal clear words that a seniority list which remains in existence for 3 to 4 years unchallenged, should not be disturbed. Thus, 3-4 years is a reasonable period for challenging the seniority and in case someone agitates the issue of seniority beyond this period, he has to explain the delay and laches in approaching the adjudicatory forum, by furnishing satisfactory explanation.”

8. A Division Bench of this Court in ***K. K. Srivastava Vs. National Hydroelectric Power Corporation Limited and others 2004(3) PLR 338*** has held that the Courts are reluctant to unsettle the settled positions of seniority and a person aggrieved by the supersession must move the Court within a reasonable period of time.

9. Therefore, the petitioner would have no right to seek seniority in 1999. There is no satisfactory explanation for delay in approaching this Court.

10. In view of above, the writ petition is dismissed on the grounds of delay and laches.

March 20, 2017

Ansari

**(JAISHREE THAKUR)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*