

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

**CWP No. 23601 of 2013
Date of Decision: 20.04.2017**

Gurpinder Kaur

...Petitioner

Versus

State of Punjab & Others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. D. S. Rawat, Advocate
for the petitioner.

Mr. L. S. Virk, Addl. A.G., Punjab
for respondents No. 1 to 3.

Ms. Aruna Sachdeva, Advocate
for respondent No. 4.

Mr. S. S. Grewal, Advocate
for respondent No. 5.

Mr. Kapil Kakkar, Advocate
for respondent No. 6.

JAISHREE THAKUR, J. (Oral)

1. This writ petition has been filed raising a grievance that petitioner Gurpinder Kaur had obtained 58.26 marks in the merit list that was prepared for offering appointment as JBT/ETT Teachers in the Freedom Fighter category, pursuant to an advertisement issued in September, 2007, but despite having obtained adequate marks, persons lower in merit had been offered appointment denying the rightful claim of the petitioner.

2. In brief, the facts are that the petitioner applied for the post of JBT/ETT Teacher in the Freedom Fighter category and obtained 58.26 marks, however, she was not offered appointment. It is contended that 05

posts had been reserved in the said category and one Inderpreet Singh with 53.58 marks, Gurwinder Singh with 44.64 marks and Tejinder Singh with 53.02 marks had been offered appointment.

3. Per contra, an affidavit has been filed, wherein, it is submitted that the selection process was carried out during the year 2008-2009. 05 posts were earmarked for the candidates belonging to the Freedom Fighter category. Out of 05 posts, 02 posts were to filled up by the male candidates and 02 posts were to filled up by the female candidates and 5th post was meant for the candidate whoever is higher in merit amongst male and female candidates. Therefore, in the category of Freedom Fighter (Female), Navpreet Kaur and Napinder Kaur, having 62.54 and 58.93 marks respectively, were given appointment and Inderpreet Singh and Tejinder Singh, though having lesser marks than the petitioner but belonging to male category, were given appointment. One post was offered to Gurwinder Singh having 44.64. On perusal of the record, it reveals that the 5th post in the Freedom Fighter category should have been filled up by appointing Sarbjit Kaur who has got 58.51 marks whereas appointment had been offered to Gurwinder Singh. The Department proposes to proceed against the Officer responsible for offering appointment to Gurwinder Singh instead of offering the same to Sarbjit Kaur. At the present moment, there are no further vacancies pursuant to the advertisement issued in September, 2007.

4. I have heard learned counsel for the parties and find that the petitioner has slept over the matter and has approached this Court after an inordinate delay of 07 years. A perusal of the affidavit would also reveal that the 02 male candidates, namely Inderpreet Singh and Tejinder Singh, though having lesser marks than the petitioner, have been appointed while

maintaining the ratio of 50:50 i.e. 02 persons to be appointed from male candidates and 02 persons to be appointed from female candidates. The 5th post has been given to a person who admittedly has lower marks than the petitioner and the Department is proposing to take action against the erring Officer who had offered appointment to him despite the fact that he did not have the requisite marks. In any case, if appointment had not been given to Gurwinder Singh, the next suitable candidate on the merit list would have been Sarbjit Kaur having higher marks than the petitioner.

5. 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 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.”

6. In the instant case, the private respondents had been appointed in service in the year 2008 and thereafter confirmed in service in April, 2011. The petitioner herein slept over the matter and only approached the Department concerned under RTI in 2012 and filed this writ petition thereafter.

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

April 20, 2017

Ansari

**(JAISHREE THAKUR)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*