

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

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**CWP-22203-2014 (O&M)
Date of decision: 27.01.2017**

Radhe Shyam Sharma

....Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Pankaj Bali, Advocate for the petitioner.

Mr. Rajesh Gaur, Addl. A.G., Haryana.

Mr. Naresh Kumar, Advocate for respondent No.4.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has questioned the order dated 24.03.2008 vide Annexure P1 by which 4th respondent was promoted to the post of Project Manager in the pay scale of Rs.8000-13500 and further posting of 4th respondent as a Joint Director on 25.08.2014 (Annexure P9) by which petitioner has been transferred from Karnal to Fatehabad and further sought for a direction to respondents No. 1 to 3 to consider his representations dated 19.11.2008, 15.01.2010, 20.09.2010 and 29.08.2014 vide Annexures P2 to P4 and P10.

2. Learned counsel for the petitioner submitted that while promoting 4th respondent to the post of Project Manager, petitioner's name has been overlooked even though he is senior. Learned counsel for the petitioner pointed out that his name was not considered on the score that the petitioner

do not have the specified trade to which discipline the post is to be filled up. For the purpose of promotion, degree or diploma for the specified trade is required. Even though, the petitioner had the degree of M.A., in Economics, his name was not considered. On the other hand, 4th respondent who had the diploma in Mechanical his name was considered. Insofar as transfer order dated 29.08.2014 Annexure P10 is concerned, it was submitted that prayer to that effect has been withdrawn. Therefore, he has no grievance in respect of challenge to transfer order dated 29.08.2014. Learned counsel for the petitioner submitted that arbitrarily pick and choose method has been adopted by the official respondents while promoting 4th respondent. Hence order of promotion of 4th respondent to the post of Project Manager on 24.03.2008 vide Annexure P1 is liable to be set aside.

3. On the other hand, learned counsel for the respondents-State submitted that petitioner's grievance relating to the order of promotion of 4th respondent dated 24.03.2008 is concerned it is highly belated since the petitioner has presented the petition in the year 2014. Therefore, petition is liable to be rejected on the ground of delay and laches. It was further submitted that the petitioner had the qualification of M.A. in Economics which is not one of the degree prescribed for the post of Project Manager. Hence, rightly 4th respondent who had the requisite qualification of diploma in Mechanical which is an alternative qualification to the degree has been taken into consideration with reference to his eligibility. Therefore, there is no infirmity in the order of promotion. Further

consideration of the petitioner's representation which is belated the same cannot be taken note of by this court.

4. Heard learned counsel for the parties.

5. The petitioner has questioned the order of promotion dated 24.03.2008 in respect of 4th respondent to the post of Project Manager. The present petition has been presented in the month of October, 2014. Thus, there is enormous delay in questioning the order of his promotion. The Hon'ble Supreme Court in the case of *P. Sadashiv Swami versus State of Tamilnadu* reported in 1975 SCC (1)152 held that in respect of challenge to promotion and seniority of an employee is concerned employee should approach at the earliest and within a reasonable period. In the present case the petitioner has slept over the matter between 2008 to 2014 and it was submitted that he had submitted representation which does not give him cause of action as held by the Supreme Court in the case titled as *Union of India versus M.K.Sarkar* reported in 2010(2) SCC 59 and in the case titled as *C.Jacob versus Director of Geology and Mining and another* reported in 2008(10)SCC 115. Therefore, the petitioner has not made out a case so as to interfere with the Annexure P1. Thus, on the ground of delay and laches prayer sought in the present petition is rejected.

6. Accordingly, CWP stands dismissed.

27.01.2017

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons
Whether Reportable:

Yes/No
Yes/No