

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

CWP No. 18500 of 2017
Date of decision: 21.08.2017

Anil Kumar

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Kuldeep Sheoran, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks a writ in the nature of mandamus under Article 226 of the Constitution of India to consider the case of the petitioner on the post of clerk under ex-gratia scheme.

It is not disputed that the petitioner was appointed as a Bull Attendant in Animal Husbandry Department on 26.08.2002 in place of his father because his father had become blind. It is his case that he was duly qualified for the post of clerk at the time of appointment since he had passed his graduation in the year 1998 and, therefore, the appointment at a lower post at a lower status was not justified.

A writ of mandamus can only be issued if there is a legal right as such which can be enforced. Admittedly, the petitioner was appointed way back 15 years earlier. The purpose of the appointment under the ex-gratia scheme is to ensure that the family does not suffer from vagrancy. The ex-gratia scheme is not to replace the normal source of appointments and is only a concession which is given. The petitioner had accepted the said concession 15 years back and now cannot turn around and say that the

concession was wrongly applied to him and he should have been appointed on a higher post. Merely because some other persons had been appointed on higher posts thereafter would not permit the petitioner to re-agitate the issue after a decade and a half. The principle of delay and laches is an important aspect which is to be kept in mind while exercising jurisdiction under Article 226 of the Constitution of India. It is settled principle that the law is for the vigilant and not for those who sleep over their rights.

In such circumstances, this Court is of the opinion that a writ of mandamus is not liable to be issued at this stage keeping in view the conduct of the petitioner himself and on the principle of estoppel. Accordingly, there is no merit in the present writ petition and the same is dismissed in limine.

21.08.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No