

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.22611 of 2017(O&M)
Date of Decision: 16.11.2017

Naresh Kumar & others

--Petitioners

Versus

State of Punjab and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. A.S. Sandhu, Advocate for the petitioners.

TEJINDER SINGH DHINDSA.J (Oral)

Petitioners, who are three in number, are serving as Senior Assistants under the Revenue Department, State of Punjab.

Challenge in the instant petition is to the order dated 12.8.2010 (Annexure P-13) issued by the Commissioner, Ferozepur Division, Ferozepur in terms of which the claim of the petitioners to be assigned a seniority position over and above private respondent no.4 in the cadre of Clerks, has been rejected.

Counsel would submit that the impugned order dated 12.8.2010 (Annexure P-13) was never supplied to the petitioners and rather the same has been procured only recently under the provisions of R.T.I Act.

Having heard counsel for the petitioners at length and having perused the pleadings on record, this Court is of the considered view that there would be no basis that would warrant interference in the matter.

It is the pleaded case of the petitioners that a tentative seniority list of Clerks was circulated on 15.9.1997 in which the petitioners were shown senior to private respondent no.4. Thereafter, a final seniority list of Class-III employees was circulated on 22.12.1997 (Annexure P-4) and in

which respondent no.4 has been shown senior to the petitioners herein in the cadre of Clerks. Counsel submits that Moga District came to be created in the year 1995. Private respondent no.4 was earlier posted and working as Clerk in the office of Deputy Commissioner, Faridkot and it is on her request that she was transferred to Moga District. One of the specific terms and conditions of such transfer was that she would lose seniority pertaining to service rendered prior to joining in Moga District. It is accordingly urged that the action of the respondent authorities in having treated private respondent no.4 as senior to the present petitioners in the cadre of Clerks and by giving her benefit of her past service under Faridkot District, is illegal.

It is a matter, where this Court would not go into the merits of the submissions advanced.

The final seniority list was circulated on 22.12.1997. Counsel during the course of arguments concedes that the first representation filed against the final seniority list was in the year 2005 i.e. after a period of almost 8 years. Even though, an attempt has been made to overcome delay by contending that the impugned order dated 12.8.2010 (Annexure P-13) was never supplied and was procured under the R.T.I Act but in the same breath it has also been stated that the application under R.T.I Act was filed only in the year 2017.

The final seniority list dated 22.12.1997 of the cadre of Clerks stands acted upon inasmuch as the petitioners herein as also the private respondent have earned further promotions to the post of Junior Assistant as also Senior Assistant.

The Hon'ble Supreme Court in case of ***P.S. Sadasivaswamyy Vs. State of Tamil Nadu, AIR 1974 SC 2271*** has dealt with the aspect of delay in having approached the Writ Court in matters of seniority and promotion and have observed as under:-

“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 extraordinary 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 forward 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.”

By following the dictum laid down by Hon'ble Apex Court in ***P.S. Sadasivaswamyy's*** case (supra) there would be no scope for interference in the present case. Acceptance of the prayer raised in the instant petition would virtually amount to unsettling settled matters.

The writ petition suffers from inordinate delay and laches.

Petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

16.11.2017

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No