

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.10714 of 2018
DECIDED ON: AUGUST 02, 2018

ASHOK KUMAR GURU

.....PETITIONER.

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS.

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Yash Pal Sharma, Advocate,
for the petitioner.

JASPAL SINGH, J.

By virtue of instant civil writ petition, preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ order or direction to the respondents to grant promotion as Senior Medical Officer on the basis of agenda submitted in meeting of departmental committed held on 07.05.2010 from the date his junior was promoted and all consequential benefits. And further directing the respondents to revise the pensionary benefits etc. Consequent upon promotion as Senior Medical Officer.

2. At the very outset, a query was posed to learned counsel for the petitioner to the effect that as to why petitioner did not prefer any such petition claiming benefits, which have been claimed through the instant petition, at an early stage but he could not give any satisfactory reply. There is a long delay in

filing the petition. Thus, petitioner is guilty of long delay and laches which is suggestive of the fact that he is deemed to have acquiesced or waived off his claim or right. Such a relief cannot be claimed ignoring the long and unexplained delay.

3. In ***Brijesh Kumar and others vs. State of Haryana and others, 2014 (11) SCC 351***, the Hon'ble Supreme Court has laid down various principles in which law of limitation has legal maxim. While relying upon the judgment in case of ***Esha Bhattacharjee vs. Raghunathpur Nafar Academy & others, 2013(4) RCR (Civil) 785***, the Hon'ble Apex Court principles regarding delay and laches were laid down which can be summarized as under:-

“ x x x

(v) Lack of bonafides imputable to a party seeking condonation of delay is a significant and relevant fact.

(vi) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.

x x x

(ix) The conduct, behavior and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.”

4. A glance at the aforesaid principles makes it crystal clear that increasing tendency to perceive delay as a non-serious matter and, hence, apathetic tendency can be exhibited in a nonchalant manner requires to be

curbed.

5. Adverting to the facts of the instant case, cause of action, if any accrued to the petitioner on 07.05.2010, when the Medical Officers junior to him were considered and promoted to the post of Senior Medical Officer(s). The petitioner stood retired on attaining the age of superannuation on 31.05.2012. He remained inactive and did not opt to challenge the promotion either immediately in the year 2010 or subsequent thereto within a reasonable period which could be maximum five years. He challenged the aforesaid action only by way of instant petition in the month of April, 2018. There is no explanation what to talk of any plausible explanation regarding delay and laches.

6. Thus, in the light of the legal position discussed above, on the basis of various authoritative pronouncements of the Hon'ble Apex Court, it can be safely observed that instant petition suffers from delay and laches.

7. Consequent upon the aforesaid discussion, this Court does not find any merit in the instant petition and it stands dismissed but with no order as to costs.

AUGUST 02, 2018
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes*

Whether reportable *Yes/No*