

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

CWP-1124-2018

Date of decision-26.07.2018

Lajinder Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. R.K.Arora, Advocate for the petitioner.

JITENDRA CHAUHAN, J.

This writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of certiorari for quashing the orders dated 19.07.2016 and 08.11.2017 (Annexures P-16 and P-20, respectively) whereby, the claim of the petitioner for granting him benefit of previous service has been declined.

It is the case of the petitioner that in pursuance to advertisement dated 19.08.1992 for filling up 175 post of Lecturer (Annexure P-1), the petitioner was appointed on 17.10.1994 as Physics Lecturer against the category of the 'Freedom Fighter'. Vide order dated 01.12.1994 (Annexure P-5), the petitioner was dismissed from the service stating him to be an excess appointee against the advertised posts and was again offered appointment as Physics Lecturer on *ad hoc* basis. Thereafter, the petitioner made representation but no action was taken and he joined on *ad hoc* basis for the aforesaid post. As per advertisement dated 28.12.1994, the petitioner again applied and was selected as Physics Lecturer on

12.03.1996 on regular basis. The petitioner made several representations to respondent No.2 to treat his appointment against 175 advertised posts and grant him all consequential benefits. On 19.07.2016, the claim of the petitioner was rejected on the ground of delay and laches.

Learned counsel contends that delay was not on the part of the petitioner and the plea of delay and laches can only be taken by third party/private respondents not by the State. In support of his contention learned counsel has placed reliance on judgment passed by Hon'ble the Supreme Court in **“Union of India and others Vs. Shantiranjn Sarkar” 2009 (2) S.C.T.44** and a judgment passed by this Court in CWP-11295-2013, titled as **“Sukhchain Singh Vs. State of Punjab and another”** decided on 13.10.2015.

I have heard learned counsel for the petitioner and have gone through the case file.

In **“Karnataka Power Corporation Ltd. And another Vs. K.Thangappan and another” 2006 (4) SCC 322**, it has been held as under:-

“The factual position as noted above clearly shows that for nearly 2 decades the respondent No.1-workman had remained silent. As rightly pointed out by learned counsel for the appellants even in the representations made in 1997 and 1998 there was no reference to the representations claimed to have been made in 1982 and/or 1989. Even if that would have been made, there was considerable delay even in making the representations. There is no dispute that mere making of representations cannot justify a belated approach. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may

refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in Durga Prasad v. Chief Controller of Imports and Exports (AIR 1970 SC 769). Of course, the discretion has to be exercised judicially and reasonably.”

In the instant case, there is huge delay of a number of years. Therefore, principle of delay and laches shall operate against the petitioner. The cause of action, if any, in favour of the petitioner arose after his joining as Lecturer on 12.03.1996. The petitioner has chosen to file the present petition on 14.01.2018 when he is at the verge of superannuation.

The ratio of law laid down in the authorities cited by learned counsel for the petitioner is clearly distinguishable on the facts of the instant case.

Thus, in view of the above and the law laid down by Hon'ble the Supreme Court in **Karnataka Power Corporation Ltd.** (Supra), this Court is not inclined to interfere in the impugned order.

Consequently, the present writ petition sans merit and is hereby dismissed.

26.07.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No