

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

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CWP-1540-2018 (O&M)
Date of decision:24.01.2018

Rakesh Mann and others

....Petitioners

Versus

Union of India and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. J.S.Gill, Advocate for the petitioners.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioners have prayed for the following relief:-

“i) *Issue a Mandamus directing Respondents No. 2 & 3 to grant appointments to the petitioners, in furtherance of the selection process initiated after the publication of the Advertisement dated 05.02.2011 (Annexure P-1), on the grounds mentioned in the petition.*

ii) *Issue a writ in the nature of Certiorari, quashing the appointments of respondents No.4 to 24, as*

the same have been made in complete violation of the selection criteria, thereby denying legitimate appointments to the petitioners, on the grounds mentioned in the petition.”

Petitioners are stated to be candidates for recruitment to the post of Constable (G.D.) BSF, CISF, CRPF and SSB pursuant to the advertisement vide Annexure P1 published in the Employment News Samachar dated 05.02.2011. Having participated in the process of selection petitioners are challenging notice to say that there are certain defects to the extent that it is contrary to regulations/rules and further challenging order of appointment of respondents No.4 to 24. There is delay and laches on the part of the petitioner's in challenging the advertisement issued in the year 2011 and further order of appointment issued to respondents No.4 to 24. Learned counsel for the petitioner submitted that Rajasthan High court has entertained identical matters. Therefore, writ petition is required to be entertained.

Heard learned counsel for the petitioner.

Undisputed facts are that advertisement was issued for the post of Constable in the month of February, 2011 and the process of selection completed and order of appointments were issued to the selected candidates. Present petition is filed insofar as challenging the notice/advertisement as well as order of appointment issued to respondent No. 4 to 24. There is delay and laches on the part of the petitioners therefore, writ is not maintainable. Supreme Court in the case of ***State of Jammu and Kashmir versus R.K.Zalpuri and others*** reported in (2015) 15

Supreme Court Cases 602 in paras 20 and 28 held as under:-

“20. *Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation vs. Dosu Aardeshir Bhiwandiwalla and Others*, wherein this Court while dwelling upon jurisdiction under *Article 226* of the Constitution, has expressed thus: (SCC p. 175, para 30)

“30. *The Court while exercising its jurisdiction under Article 226 is duty- bound to consider whether:*

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.”

28. *Another aspect needs to be stated. A writ court while deciding a writ petition is required to remain alive to the nature of the claim and the unexplained delay on the part of the writ petitioner. Stale claims are not to be adjudicated unless non-interference would cause grave injustice. The present case, needless to emphasise, did not justify adjudication. It deserved to be thrown overboard at the very*

threshold, for the writ petitioner had accepted the order of dismissal for half a decade and cultivated the feeling that he could freeze time and forever remain in the realm of constant present.”

Insofar as entertaining petition by Rajasthan High court is concerned the same is not binding in view of the Supreme Court decision on the issue relating to delay and latches which were required to be examined under Article 226 of Constitution.

Accordingly, CWP stands dismissed.

24.01.2018

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No