

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.16566 of 2018

Date of Decision: 10.07.2018

Randhir Singh

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Neeraj Kumar, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.(Oral)

1. This petition suffers from inordinate delay and laches whilst the claim for promotion is made as Sub Divisional Officer with retrospective effect from December 23, 2005 brought for the first time in the middle of year 2018. The claim is anchored on the date when the alleged juniors were promoted to the post of Sub Divisional Officer. The petitioner retired from service in 2012. He has filed a representation on August 16, 2017 and prays that a writ order or direction be issued to the respondents to decide the representation time bound which is still pending.

2. The petitioner ought to have approached the department well in time and on failing to receive response could have moved this Court long ago soon after the cause of action accrued on being passed over. He did neither while in service and six years thereafter. He let time pass and now wants his due. Any direction issued at this stage will inevitably lead to administrative chaos and invite unnecessary complications including cadre seniority which could have been avoided had the petitioner approached in

time if he could establish his claim beyond doubt. No explanation has been given for the delay of many years which could be treated as sufficient cause for condoning it. Had a civil suit been brought for the same cause of action when it accrued for the first time it would be barred by time and, therefore, it would not be prudent for the Writ Court to interfere in a stale claim. For this proposition see: State of Madhya Pradesh v. Bhailal Bhai, AIR 1964 SC 1006.

3. The seemingly innocuous prayer made by the counsel that all that the petitioner wants is only a deemed date of promotion and notional benefits arising therefrom, which if contemplated, will also lead to money claim by re-fixation of pension and other benefits which this Court is not prepared to hand down for the asking to a person sleeping over his perceived rights six years of retirement and coming at his sweet will to knock the doors of court. Government is not duty bound to decide the representation which is not statutory in character. Rights to promotion have to be agitated on being superseded within reasonable time as explained in P.S.Sadasivaswami v. State of Tamil Nadu, (1975) 1 SCC 152 in the following words:

“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."

4. In the same aspect may see Supreme Court ruling in State of Uttaranchal v. Shiv Charan Singh Bhandari, (2013) 12 SCC 179, reiterating and applying the rule in *P.S. Sadasivaswami* case holding that the approach should be within 6 months to at the most a year in cases of promotion coming in litigation.

5. Similarly, "The belated approach is impermissible as in the meantime interest of third parties gets ripened and further interference after enormous delay is likely to usher in a state of anarchy.": See Vijay Kumar Kaul v. Union of India, (2012) 7 SCC 610.

6. Then again: "There can be no cavil over the fact that the claim of promotion is based on the concept of equality and equitability, but the said relief has to be claimed within a reasonable time." : See Gulam Rasool Lone v. State of J&K, (2009) 15 SCC 321. The time travelled in reaching Court in the present case is not reasonable by any liberal standard.

7. In the upshot, this petition is dismissed on grounds of enormous delay and unexplained laches. When this is the legal matrix, merits are not to be seen.

(RAJIV NARAIN RAINA)
JUDGE

10.07.2018

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Whether speaking/reasoned Yes

Whether reportable No