

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-23482-2016

Date of decision: 04.12.2018

Anil Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. G.S. Gopera, Advocate for the petitioner.

Ritu Bahri, J. (Oral).

The petitioner is seeking quashing of impugned order dated 18.08.2016 (Annexure P-5) whereby his representations for granting the deemed date of appointment has been rejected.

Heard learned counsel for the parties.

The facts not in dispute between the parties are that the petitioner was appointed as a Constable and joined his duty on 03.04.2006 (Annexure R-1). The petitioner had applied for the post of Constable under ESM General Category in the month of December 2003 and 26 posts were meant for ESM General Category. The petitioner, after selection, was called for medical examination and he was declared fit vide medical certificate No. 862, the character and antecedents were also found satisfactory vide police verification No. 615/6A on 21.12.2004. The petitioner deposited all his original certificates in the office of Superintendent of Police, Bhiwani on 21.12.2004. However, he could not be appointed and he had to file CWP 19702 of 2005 before this Court which was disposed of on 19.12.2005 (Annexure P-2) giving direction to

respondents to consider his case within a period of three months. Pursuant to the order passed by this Court, the petitioner joined his duty on 03.04.2006 and after a gap of almost 10 years, the present petition has been filed seeking benefit of seniority from the date of medical examination i.e. December, 2004.

The claim of the petitioner is being denied by the respondents keeping in view the instructions issued by Director General of Police dated 08.02.1999 (Annexure R-4). As per these instructions, representation regarding seniority are not to be entertained after lapse of 10/12 years and even 2nd, 3rd representations against fixation of seniority or adverse ACRs are not to be entertained by the authority. While issuing these instructions, reference has been made of the order passed in *Civil Appeal Nos. 7605-7610 of 1996* by the Supreme Court in the case of *B.S Bajwa and another V/s. State of Punjab and others* wherein it has been held that in service matters, the question of seniority should not be re-opened after the lapse of reasonable prescribed period because that results in disturbing the settled position, which is not justifiable. In para 6 of the instructions, it is further observed that representation against any order passed by higher authority is not to be entertained if it is more than 5 years old. In the present case, the petitioner joined wayback on 03.04.2006 and after a gap of 10 years, he is seeking benefit of seniority from 2004, the date when he was medically examined and found fit. As per instructions dated 08.02.1999(Annexure R-4), the respondents have rightly not entertained his representation regarding fixation of seniority.

Dismissed.

04.12.2018

Divyanshi

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No