

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

CWP-21685-2018

Date of decision: - 20.11.2018

Satnam Singh and others

....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Sunny Singla, Advocate, for the petitioners.

HARSIMRAN SINGH SETHI, J. (ORAL)

Present writ petition has been filed by the petitioners claiming that they should be granted pay-scale of Junior Assistant after revising the seniority in the cadre of Clerk, Senior Clerk and Junior Assistant. It has been mentioned in the writ petition that the petitioners, who joined the department starting from the 1979 till 1984, have worked as Clerk in the Municipal Council, Phagwara. The petitioners retired starting from the year 2008 onwards and are not in the service of Municipal Council anymore.

The grievance which has been raised in the present writ petition is that due to non-revising of the seniority, the petitioner could not be granted the re-designation of Junior Assistant, which would have entitled them the higher pay-scale. Admittedly, there is no representation which has been filed by the petitioners during their service career to claim the said benefit. They never agitated that they are entitled for a higher

pay-scale on account of re-designation as Junior Assistant. No representation has been placed on record in this regard. Only one representation that too, which was made in the year 2010, by the President of the Municipal Council Employees Union, Municipal Council Phagwara, has been placed on record, which will not serve the purpose. Further, even that representation was made in the year 2010 but the writ petition has been filed in the year 2018. The legal notice was served on the respondents after a delay of more than eight years of the representation (Annexure P-2). Counsel for the petitioner has not been able to explain the delay and convince the Court that they ever agitated the claim, which has been made in the present writ petition, during their service career. Now after the retirement, the claim is being made, which is a delayed claim, in the opinion of this Court. Now, there is no master and servant relation between the respondents and petitioners and the request is for revising the seniority in the cadre of clerks, which plea cannot be entertained at this stage. The Hon'ble Supreme Court in the case of **State of Uttar Pradesh & Ors. Vs. Arvind Kumar Srivastava & Ors.** 2015 (1) SCC (L&S) 191 has dealt with this question and summoned up law on this issue in Para 23 as under: -

“(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated

persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.”

Therefore, the claim of the petitioner is liable to be rejected on the ground of delay itself.

Hence, in view of the delay in approaching this Court and further the fact that the petitioners are no longer the employees of the respondent/Corporation), the claim for revising the seniority list with retrospective effect cannot be entertained.

Dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

November 20, 2018
naresh.k

Whether reasoned/speaking?	Yes
Whether reportable?	No