

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.29344 of 2018

Date of Decision:-13.12.2018

Satnam Singh.

.....Petitioner.

Versus

The State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. H.S. Jaswal, Advocate for the Petitioner.

JASWANT SINGH, J.

Petitioner-Satnam Singh has preferred the instant writ petition seeking a writ in the nature of Mandamus for directing the respondents to appoint petitioner as a constable with Punjab Police in pursuance to the Orders of respondent no. 2 - Director General of Police, who approved the name of petitioner to be enlisted as constable in the Punjab Police.

Learned Counsel for the petitioner has argued that petitioner's father had served the Punjab Police for nearly 38 years and had participated in different operations during militancy period. However, during service, he suffered serious physical disability and consequently, took pre-mature retirement. It is argued that vide representation dated 27.5.2003 (P-3), petitioner's father had requested the then Director General of Police to appoint the petitioner as Constable in Punjab Police, by considering it as a

special case. In pursuance of the said request, it is averred that a list under special recruitment quota was circulated in the year 2004 (P-4), whereby name of petitioner also stood reflected. However, the said list was not implemented on the ground that it was withdrawn vide order dated 28.9.2004. Consequently, petitioner filed numerous applications under the Right to Information Act, 2005 from 2015 onwards, seeking the status of the recruitment, however, either he was not informed about the fate of the said special list or was supplied wrong information that due to bar on direct recruitment, no one was selected. But, it is argued that now it has come to the knowledge of the petitioner, that similarly situated persons have filed CWP No. 27057 of 2013 of 2013 before this Court, whose writ petition stands allowed on 21.02.2018 (P-12) and from the said Judgment, it is clear that respondents had discriminated with the candidates as some of the persons have been given appointments and some were wrongly left out. Thus, it is urged that since petitioner, being similarly situated is entitled for grant of appointment in terms of Order Annexure P-12.

After having scrutinizing the arguments raised by the Learned Counsel for petitioner and perusing the paper book, this Court is of the opinion that instant writ petition is without any merit and therefore deserves to be dismissed.

As per the admitted case of petitioner, an order withdrawing the special list was passed in the year 2004 itself. It is also an admitted position that five persons mentioned in the said list, approached the Court in the year 2005 itself by preferring CWP No. 8747 of 2005 and were offered appointment under the orders of the Court. Thus, the said persons had approached that Court within time and their claim was accepted by the

Court. It is further not in dispute that petitioner has not been able to place on record any communication/representation to show that he was pursuing the matter with the department from 2004 to 2015. Except for bald assertion, there is no proof of any communication with the department. Although it is settled position of law that mere representation to the department does not stop the limitation, still, in case it would have been shown that petitioner's case was kept pending, this Court could have considered it as a valid explanation. However, it is only in the year 2015 that petitioner starts seeking information from the concerned department. Despite the fact, petitioner was supplied information, may be complete or incomplete in the following months, petitioner has filed the instant Writ Petition in the year 2018 i.e. after a gap of 14 years. Meaning thereby, the petitioner, who had a cause of action in the year 2004, sat over his rights for years together and now, because some persons have been granted appointments under the orders of the Court, he has approached this Court, seeking appointment. This, in the opinion of this Court, it cannot be allowed, as the petitioner is a *fence sitter*, who waited for other candidates to fight his proxy litigation and once, the said candidates got the relief from this Court, he conveniently has filed the instant Writ Petition seeking similar relief on the strength of Judgments passed in favour of similarly situated candidates.

Further the reliance of petitioner on the Judgment passed by Co-ordinate Bench of this Court in CWP No. 27057 of 2013 (P-12) is also of no help, as in the said judgment, point of delay and laches and limitation has not been discussed, in any case, the said persons had also filed the writ petition in the year 2013. It is settled law that while adjudicating a claim

exercising writ jurisdiction, Limitation Act is applicable, which would, usually in such type of cases, be three years from the date of accrual of cause of action.

In view of the above, finding no merit in the instant writ petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

December 13, 2018
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>