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

CWP No.5352 of 2018 (O&M)

Date of Decision: 07.03.2018

DAVINDER KUMAR

..... Petitioner

Versus

**THE STATE OF PUNJAB THROUGH ITS SECRETARY,
DEPARTMENT OF TRANSPORT PUNJAB AND OTHERS**

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Rohiteshwar Singh, Advocate for the petitioner.

JASWANT SINGH, J. (ORAL)

The petitioner (Davinder Kumar), claims to have been appointed on contract basis as a Driver on 20.06.1994 in the Punjab Roadways, Pathankot Depot, Pathankot. His services were terminated on 07.07.1994 in terms of conditions of the engagement. He is stated to have been again appointed as Driver on contract basis through a private service provider on 03.11.2007 to drive the buses of the Punjab Roadways. He is stated to have been engaged as a Driver on contract basis w.e.f. 21.07.2015 directly by the Roadways Department, Pathankot Depot.

By filing the present petition, the petitioner is seeking the benefit of the directions passed by a learned Single Judge in CWP No.9896 of 1994, decided on 19.11.2014, whereby the Department was directed to consider the case of the petitioners therein for absorption in service. It is

claimed that the said writ petition was filed by the similarly situated Drivers, who were engaged in the year 1994 on contract basis, however, had chosen to file writ petitions, challenging their termination therein.

After hearing learned counsel for the petitioner, no case for interference is made out. It is conceded that the identically situated Drivers had filed their writ petition in the year 1994 itself, challenging their termination. However, the petitioner chose to keep silent all these years. Now, after the decision of the aforesaid writ petition on 19.11.2014, after a delay of more than 23 years from the date of termination and more than 2 years of the said decision, similar benefit is claimed, which cannot be entertained, as it is a settled principle of law that fence sitter cannot claim similar treatment, as they have chosen not to seek timely redressal of the grievance from the Court.

Dismissed with a costs of Rs.5,000/- to be deposited within two months from today before the District Legal Services Authority, Pathankot, failing which, the Member Secretary, District Legal Services Authority, Pathankot, shall be free to recover the same as arrears of land revenue in accordance with law, including the option of getting the same deducted from his salary.

March 07, 2018

'rajneesh'

**(JASWANT SINGH)
JUDGE**

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No