

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

CWP No.7524 of 2018(O&M)

Date of Decision:-10.07.2018

Gurminder Singh.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Navjeet Singh, Advocate for the Petitioner.

JASWANT SINGH, J.

CM No.9320 of 2018 has been filed under Section 151 CPC for deletion of second prayer qua direction in the nature of Mandamus regarding fixing of seniority w.e.f. 01.04.1995.

CM duly supported by affidavit is allowed. Aforesaid relief claimed in prayer (ii) stands deleted.

MAIN CASE

Petitioner Gurminder Singh has filed the instant writ petition, praying for setting aside of the order dated 02.09.2013 (**P-6**) passed by respondent no.3-Commissioner of Police, Ludhiana, whereby he was promoted to the post of Assistant Sub Inspector with a rider that he shall not be entitled for any financial or seniority benefits, with a further prayer has been made for quashing order dated 07.07.2015 (**P-5**), as vide this order petitioner has been barred from seeking recovery of any arrears from the

police Department on basis of his seniority.

Learned Counsel for the petitioner has argued that while promoting the petitioner to the post of Assistant Sub Inspector from the post of Head Constable, a condition of not claiming any financial or seniority benefits was levied, as despite the fact that petitioner was promoted to the post of ASI and has been conducting duties of ASI, the emoluments granted to him are still of Head Constable only. Further, it is argued that the petitioner was entitled to be promoted to the post of Head Constable in the year 1995 itself, but was wrongly given notional promotion on 25.03.2015 w.e.f.23.03.2003, with a rider that he cannot claim any arrears and, therefore, the order whereby he was barred from seeking arrears, is bad in law and, therefore, liable to be set aside.

I have heard learned Counsel for the petitioner at length and have also perused the paper book with his able assistance. However, I am of the view that present petition deserves to be dismissed.

Admittedly, the order promoting petitioner to the post of ASI has been passed on 02.09.2013 (**P-6**) and the petitioner had duly accepted the said order and kept on working on the post of ASI. Similarly, the petitioner was given notional promotion vide order dated 07.07.2015 (**P-5**) and had accepted the said order as well. It is seen that it is for the first time on 11.09.2017 (**P-8**) that petitioner had got issued a legal notice through his counsel raising his grievances. Thus, petitioner chose not to challenge any part of his promotion of rank order/s till filing of the writ petition. Hence, on this ground itself, being hit by principle of estoppel and delay and laches, petitioner cannot be granted any relief as a considerable period has elapsed, which would ordinarily bar petitioner's right to claim any relief even under

the Limitation Act. In case, petitioner was feeling wronged by any action of the State, he was required to immediately agitate his grievance before this Court and not wait for substantial time to elapse.

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

(JASWANT SINGH)
JUDGE

July 10 2018
Vinay

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No