

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.1138 of 2017 (O&M) in
CWP No. 817 of 2017
Date of decision: 18.01.2018

Hari Singh

.... Appellant

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL.
HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Yesh Paal Malik, Advocate for the appellant.

B.S. Walia, J.

[1] Challenge in this intra-court appeal is to judgment dated 19.01.2017 whereby the writ petition filed by the appellant for directions to the respondents to extend service benefits for the period from 15.01.1997 to 29.07.2004 was dismissed. Along with the present appeal, applications seeking condonation of 15 days' delay in filing and 26 days' delay in refiling thereof, have also been filed.

[2] The appellant-petitioner was appointed as Master (Maths) on contract basis on 15.01.1997 and his services were dispensed with on 23.04.1997. Challenge to the order dispensing appellant from the post of Master (Maths) on contract basis was disposed of by the Writ Court without interfering with the relieving order dated 23.04.1997 while directing the respondents to consider the appellant's grievance for appointment. The same resulted in issuance of fresh appointment to the appellant on 29.07.2004. The Writ Court dismissed the writ petition filed by the

appellant for counting of service benefits during the period from 15.01.1997 to 29.07.2004 on the ground that the appellant was relieved from the post of Master (Maths) on contract basis on 23.04.1997. On challenge by the appellant to aforesaid relieving order, the Writ Court without setting aside the same, disposed of the writ petition by directing the respondents to consider the appellant's claim for appointment. The same resulted in fresh appointment being offered to the appellant on 29.07.2004.

[3] In the light of the aforementioned background, claim of the appellant for grant of service benefits for the period from 15.01.1997 to 29.07.2004 is misconceived as relieving order dated 23.04.1997 was never set aside either by the learned Writ Court or any other Court/Forum so as to enable the appellant to claim continuity of service from 23.04.1997 to 29.07.2004. The appellant's services were never regularized on the post of Master (Maths) during the period he was holding the post on contractual basis.

[4] Apart from the above, the appellant was appointed on regular basis on 29.07.2004, whereas the writ petition was filed in the year 2017. The writ petition is clearly hit by the latin maxim "Vigilantibus non-dormientibus jura subvenient". In other words, the law assists those who are vigilant and not those who sleep over their rights. No case has been made out on merits, besides, appellant has invoked the jurisdiction of the Writ Court after an inordinate delay of 13 years from date of accrual of cause of action, if any. Accordingly, the order by the Writ Court dismissing the writ petition on merits as well as on account of inordinate delay and laches does not warrant interference.

[5] In the circumstances, we do not find any reason whatsoever to interfere with the well-reasoned findings recorded by the learned Single Judge.

[6] Accordingly, the appeal is dismissed. Consequently, the applications seeking condonation of delay in filing and refiling the appeal are also dismissed.

(Rajesh Bindal)
Judge

(B.S. Walia)
Judge

18.01.2018
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.