

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

LPA-1657-2018 (O&M)

Date of decision:- 05.12.2018

Ashok Kumar Guru

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present:- Mr. Yash Pal Sharma, Advocate,
for the appellant.

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KRISHNA MURARI, C.J. (ORAL)

This intra court appeal under clause X of the Letters Patent is directed against the judgement and order dated 02.08.2018 passed by learned Single Judge dismissing the writ petition filed by the petitioner (appellant herein) seeking a direction to the respondent-authorities to promote him on the post of Senior Medical Officer with effect from the date i.e. 07.05.2010 his juniors were promoted alongwith all consequential benefits.

2. It is an admitted fact that cause of action arose to the appellant on 07.05.2010 when he alleges his juniors were given promotion and he retired from service on 31.05.2012. Equally admitted is the fact that during this period no grievance was raised by him in this regard. For the first time in 2018, the appellant approached this Court by filing the writ petition. Learned Single Judge finding that the petition is barred by long delay and laches relying upon the pronouncements of the Hon'ble Apex Court dismissed the claim made by the appellant.

3. Learned counsel for the appellant submits that after superannuation in 2012, he has been making repeated

representations to the authorities and it is only when he did not hear anything from them, he served a legal notice and thereafter approached this Court.

4. It is well settled by the pronouncement of the Hon'ble Apex Court in the case of *C. Jacob Vs. Director of Geology and Mining*, (2008) 10 SCC 115 that unsolicited and unwarranted representations neither extend the limitation, nor can constitute any ground to explain the laches. The Hon'ble Apex Court in the case of *Union of India and others Vs M.K. Sarkar*, (2010) 2 SCC 59 has answered the issue in following words:-

"15. When a belated representation in regard to a "stale" or "dead" issue/dispute is considered and decided, in compliance with a direction by the court/tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the "dead" issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches."

5. In view of the aforesaid law laid down by the Hon'ble Apex Court, merely because of the fact that the appellant has been making representations to the authorities that too unsolicited and not backed by any provisions of law, will not be sufficient to explain the delay and laches of almost 08 years in raising his claim. It is writ large from the facts that a stale claim is being sought to be pressed by the appellant after inordinate delay without there being any plausible explanation. In view of the aforesaid facts, we do not find any good ground to interfere with the view taken by

the learned Single Judge in dismissing the writ petition on laches.

6. The appeal is devoid of merits and accordingly stands dismissed.

7. Since the appeal itself stands dismissed, all the miscellaneous applications also stand dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

05.12.2018
Amogh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No