

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1101 of 2019

Date of Decision: 09.07.2019

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... Petitioner

VS.

Union of India & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Ashok Gupta, Advocate for the petitioner

G.S. SANDHAWALIA, J. (Oral)

(1) In the present writ petition filed under Articles 226/227 of the Constitution of India, the petitioner seeks a directions to the respondents to decide the representation dated 23.07.2018 (P3) whereby the petitioner had sought payment of pension and all other benefits

(2) A perusal of the representation would show that the petitioner had opted for VRS and was relieved on 30.04.2006. Thereafter the demand is being raised that he is willing to pay the entire amount paid to him along with interest at the time of his premature retirement provided he is given monthly pension.

(3) In the year 2011, after 5 years the petitioner along with another employee approached Central Administrative Tribunal, Chandigarh Bench, Chandigarh praying for the same relief and challenging the cut off date of 01.09.2006. Their challenge was rejected vide order dated 02.03.2012 (P1) as per Clause 3.2(a) of the SCL Provident Funds and Pensions Scheme apart from noticing that the OA deserves to be dismissed on the ground of being barred by limitation. The relevant portion reads as under:-

“11. Moreover, Clause 3.2(a) of the SCL Provident Funds and Pensions Scheme lays down as follows:-

“3.2 The scheme shall not apply to –

(a) the employees of the Semi-Conductor Complex Limited, who had joined served prior to 1.1.2004 but relinquished their posts on account of retirement (including voluntary retirement), resignation, death, etc., before 1.9.2006 i.e. before transfer to the Society.”

12. The facts of the case of the applicants fall squarely within the ambit of this sub-clause, according to which they are not eligible to be covered under the said Scheme. Also, the basic fact is that on the date of operationalisation of the newly constituted SCL Society, the applicants did not have an employer-employee relationship with the SCL Society. Therefore, we find that the applicants have failed to establish the validity of their claim and the action of the respondents in rejecting their claim is based on rules and laws.

13. For the reasons mentioned above, we find no merit in the OA and the same is dismissed with no order as to costs.”

(4) Now the present writ petition has been filed trying to revive the stale cause of action seeking a direction to decide the representation. The Apex Court in **Civil Appeal no.2425 of 2019 The Govt. of India & Anr. vs. P.Venkatesh** decided on 01.03.2019 has held that such directions which are issued by the High Court at a belated stage only revives the cause of action and no such direction is liable to be issued at a belated stage. The relevant portion of the judgment reads as under:-

“These successive orders of Tribunal for re-consideration of the representation cannot obliterate the effect of the initial delay in moving the Tribunal for compassionate appointment over a decade after the death of the deceased employee. This ‘dispose of the representation’ mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do not service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant

costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute. By the time, the High Court issued its direction on 9 August 2016, nearly twenty one years had elapsed since the date of the death of the employee.”

(5) Even otherwise, the petitioner has not challenged the Tribunal's order dated 02.03.2012 and even though a period of 7 years has passed and therefore the writ petition would not be maintainable on this account as he cannot be allowed to raise any grievance by filing a writ petition without praying for setting aside the findings of the Tribunal which should have been challenged within a reasonable period from the date the order was passed.

(6) Keeping in view the above, this Court is of the firm opinion that this is not a fit case to invoke the writ jurisdiction of this Court as the petitioner kept sleeping over his rights and chose not to agitate at the right time.

(7) Resultantly, there is no merit in this writ petition and the same is accordingly dismissed in limine.

09.07.2019

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(G.S. Sandhawalia)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No