

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.15867 of 2019

Date of decision: 17.08.2019

Bara Singh

..... Petitioner

Versus

State of Punjab and others

.... Respondents

Before: Hon'ble Mr. Justice B.S. Walia.

Present: Ms. Alisha Arora, Advocate for the petitioner.

B.S. Walia, J.,

1. Prayer in the writ petition under Article 226/227 of the Constitution of India is for the issuance of a writ, order or direction especially in the nature of Mandamus for modifying award Annexure P/1 dated 13.11.2009 and for reinstatement of the petitioner with full back wages instead of award of compensation of ₹40,000/-.

2. Learned counsel contends that the learned Labour Court, Patiala (hereinafter referred to as 'the Labour Court'), passed an award holding that the petitioners services had been terminated by respondent Nos.2 and 3 in violation of the provision of Section 25-F of the Industrial Disputes Act, 1947. However, instead of granting reinstatement with full back wages, the learned Labour Court awarded compensation of ₹40,000/- only. Likewise, similarly situated employees were granted ₹40,000/- by the Labour Court but similarly situated employees invoked the jurisdiction of this Court by way of CWP No.867 of 2010, CWP No.937 of 2010 and LPA Nos.771 and 772 of 2011, which were disposed of by this Court vide order dated

29.11.2014, by granting retrenchment compensation of ₹1,50,000/-.

Learned counsel contends that in the circumstances, the petitioner was also entitled to modification of award and for grant of relief as prayed for, as had been granted to similarly situated persons as referred to above.

3. I have considered the submission of learned counsel for the petitioner, but am afraid that the writ petition is liable to be dismissed on the short ground of delay and laches. The petitioner is not entitled to relief merely on showing that similarly situated persons as the petitioner were granted compensation of ₹1,50,000/- on account of the petitioner being in the position of a fence sitter and having approached the High Court only after relief was granted to similarly situated persons. The petitioner maintained a stoic silence for a period of close to 10 years from the date of passing of the award and came to the Court only after other similarly situated persons had been granted the benefit and that too vide order dated 29.11.2014. In somewhat similar circumstances, in LPA No.1662 of 2015, the claim put forth by the appellants therein by way of writ petition filed in the year 2015, was rejected on the ground of inordinate delay and laches. Appellants therein had joined the Transport Department as Ticket Verifiers on daily wage basis in the year 1981-82. Their services were dispensed with against which they raised industrial dispute which was answered in their favour. Resultantly, they were reinstated on different dates in the year 1987-88. Their services were regularized w.e.f. 01.04.1993 under a Government Policy. They continued to serve on regular basis and later filed a writ petition claiming that they were entitled to seek regularization on completion of 240 days service as per old Government policy dated 19.02.1979. The writ petition was disposed of with a direction to the Authority to examine and decide their claim. The competent authority rejected the claim vide order dated 11.12.2004. The appellants then filed another writ petition in the

year 2015 which was dismissed by the learned Single Judge on the ground of delay and laches. In appeal, the order of the learned Single Judge was upheld. Relevant extract of the decision of the Division Bench in LPA No.1662 of 2015 titled as '**Sukhbir Singh and others** versus **State of Haryana and others**', is reproduced as under:-

- “5. We have heard learned counsel for the parties and gone through the record. There is no denial to the fact that after regularization of their services w.e.f. 01.04.1993, the appellants woke up first time in the year 2012 and raised claim for retrospective regularization. The said claim was based upon a decision of this Court dated 19.12.2011 rendered in the case of Jaimal Singh and others Vs. State of Haryana and another (CWP No.6135 of 1998) where this Court directed the State Government to identify the Depot-wise requirement of post of Ticket Verifiers and sanction the requisite posts so that their services could be regularized. The State Government undertook such exercise and the writ-petitioners in that case were made regular w.e.f. 01.04.1987.
6. It is in the light of these facts that the appellants also wanted the dates of regularization of their services to be antedated.
7. The fact that the appellants took no steps to claim the benefit of Government policy of 1979 for over 12 years is not in dispute. They cannot take the benefit of Jaimal Singh's case (supra) as the writ petitioners in that case had approached this Court in the year 1998 while the appellants remained fence-sitters. Even as per Jaimal Singh's case, there was no cutoff date for the purpose of regularization of services. Much was to depend upon as to how many posts were sanctioned in a depot. All the writ petitioners of that case were not made regular w.e.f. 01.04.1987.

8. *Assuming that the appellants are similarly placed yet they lost their right as neither such claim was put up before the competent authority nor they approached any other forum within a reasonable period. In this view of the matter, the rejection of their claim by learned Single Judge on the ground of delay and laches calls for no interference by this Court.”*

4. In Sukhbir Singh’s case (Supra) the Division Bench denied relief not only on account of delay of over 12 years in agitating the dispute but also on the ground that in the connected case on which reliance was placed, the petitioners had approached the Court in the year 1998 while the appellants in Sukhbir Singh’s case had remained fence sitters. In the instant case, the petitioner did not challenge award Annexure P/1 dated 13.11.2009 for a period of close to 10 years and slept over his right and it is only when order was passed in the case of similarly situated persons in CWP No.867 of 2010 and 937 of 2010 and LPA Ns.771 and 772 of 2011, on 29.11.2014 that the petitioner chose to invoke the jurisdiction of this Court to challenge award dated 13.11.2009 vide writ petition dated 27.05.2019 i.e. after a further lapse of close to five years.

5. It is, thus, crystal clear that the petitioner allowed grass to grow under his feet by acquiescing in the award dated 13.11.2009 by not challenging the same for a period of close to 10 years. It is only on coming to know of similarly situated persons having been granted the relief that the petitioner invoked the jurisdiction of this Court, that too five years after the grant of relief to the other similarly situated persons. The position of the petitioner is that of a fence sitter.

6. In the light of the position as noted above, no case whatsoever is made out warranting interference with the award passed by the learned Labour Court.

7. For the reasons as given above, the writ petition is bereft of merit and is accordingly dismissed in *limine*.

(B.S. WALIA)
JUDGE

17.08.2019
rajesh.k.khurana

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