

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-15667-2020 (O&M)
Date of decision: 29.09.2020

Rozy Dhillon and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Mahesh Dheer, Advocate,
for the petitioners.

Mr. Vikas Mohan Gupta, Addl. A.G. Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

The present petition has been filed under Article 226 of the Constitution of India for issuance of an appropriate writ, order or direction especially in the nature of mandamus for directing the respondents to appoint the petitioners on the posts as per the merit in the written examination.

I have heard learned counsel for the petitioners.

The present advertisement pertains to the year 2013 and the petitioners are approaching this Court after a span of 7 and ½ years.

This Court is not inclined to entertain the prayer of the petitioners regarding the appointment of the petitioners on the posts as per the merit in the written examination. The said indulgence is liable to be rejected out-rightly for the reason that the petitioners have approached this Court after a lapse of 7 ½ years. Reliance in this regard may be placed on the

judgment of the Hon'ble Supreme Court in State of Uttaranchal and another Vs. Sri Shiv Charan Singh Bhandari and others, (2013) 12 SCC 179, wherein while considering the aspect of delay and laches in challenging the public appointments, it was held by the Hon'ble Supreme Court as under:-

“14. In Union of India and others v. M.K. Sarkar, (2010) 2 SCC 59, this Court, after referring to C. Jacob (supra) has ruled that 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.”

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21. Presently, sitting in a time machine, we may refer to a two-Judge Bench decision in P.S. Sadasivaswamy v. State of Tamil Nadu, (1975) 1 SCC 152, wherein it has been laid down that a person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where

the Courts cannot interfere in a matter after the passage of a certain length of time, but it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters.

22. We are absolutely conscious that in the case at hand the seniority has not been disturbed in the promotional cadre and no promotions may be unsettled.

There may not be unsettlement of the settled position but, a pregnant one, the respondents chose to sleep like Rip Van Winkle and got up from their slumber at their own leisure, for some reason which is fathomable to them only. But such fathoming of reasons by oneself is not countenanced in law. Anyone who sleeps over his right is bound to suffer.....”

Thus, the petitioners cannot be allowed to challenge the respondents to appoint them on the posts as per the merit in the written examination on the ground of delay, laches and acquiescence.

In view of the above, I do not find any merit in the present writ petition. The same is consequently dismissed being time barred.

(HARNARESH SINGH GILL)
JUDGE

29.09.2020
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Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No