

CWP No.7167 of 2020
Date of Decision: 19.03.2020

Tirath Singh Phougat

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAURPresent: Mr. Parminder Singh, Advocate
for the petitioner.**NIRMALJIT KAUR, J. (ORAL)**

The prayer in the present writ petition is for setting aside the order dated 17.01.2020, whereby claim of the petitioner for grant of Ist ACP Pay Scale 15600-3900+GP6000/- on completion of 5 years of service due on 01.01.2010 was wrongly rejected on the ground that the petitioner had retired on 31.12.2009.

The petitioner is stated to have retired on 31.12.2009. While explaining the delay in approaching this Court, learned counsel for the petitioner while relying on the judgment rendered by the High Court of Judicature at Madras, in P.Ayyamperumal Vs. The Registrar, Central Administrative Tribunal and others, submitted that W.P. No.15732 of 2017 came only in the year 2017 and the SLP against the same was dismissed on 23.07.2018.

It is a well settled principle of law that in case the petitioner comes to the Court on the basis of a judgment rendered in a case of similarly situated employees, he cannot claim the said benefits being a fence sitter and especially in case the said judgment is not in rem. The petitioner chose to sleep over the matter. Admittedly, even the bill introduced for granting

the identical relief to similar situated employees has been rejected on the ground that the said judgment is not a judgment in rem.

The second argument that the petitioner has restricted his claim only to the extent of 38 months prior to the filing of the earlier writ petition bearing CWP No.21159 of 2019, which was accordingly disposed of on 06.08.2019 with a direction to the respondents to decide the legal notice of the petitioner, too does not help. The said writ petition was also filed as late as on 05.08.2019.

The issue of delay was dealt with by this Court in the case of Tarsem Pal vs. Punjab State Power Corporation Limited and others, 2013 (3) SLR 314, wherein, the petitioner was serving as a Clerk with the Punjab State Power Corporation Limited and retired on 31.3.2005. He filed the writ petition after more than five years of his retirement praying for grant of proficiency step up in the pay scale on completion of 23 years of service. The same was dismissed by holding in para No.12 as under:-

“The petitioner retired from service on 31.3.2005 and the claim pertaining to the benefit of proficiency step up, which may be admissible to the petitioner during his service career, was sought to be raised more than five years after his retirement, the claim made at such a later stage deserves to be dismissed on account of delay and laches only. The petitioner could raise a grievance about the pay scales admissible to him or the last pay drawn by him within a reasonable time after his retirement. He cannot be permitted to raise the same at any time on the plea that the same is recurring cause of action.”

The petitioner admittedly retired way back on 31.12.2009. The

cause of action arose, if at all, to the petitioner at that stage. More than a decade has passed since then.

The present writ petition is accordingly dismissed on the ground of delay and laches.

19.03.2020
sandeep

(NIRMALJIT KAUR)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No