

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

**CWP-16131-2020 (O&M)
Date of decision:05.10.2020**

Shiv Raj Singh & others

... Petitioners

Versus

Dakshin Haryana Bijli Vitran Nigam Ltd. & others

.... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Sandeep Thakan, Advocate for the petitioners.

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TEJINDER SINGH DHINDSA, J.

Matter has been taken up through Video Conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Petitioners who are 49 in number have filed the instant writ petition seeking a mandamus directing the respondent/authorities to grant to them service benefits in the nature of promotion, pay fixation, arrears of salary and revised pensionary benefits at par with their juniors.

Counsel submits that the petitioners had joined the Erstwhile Haryana State Electricity Board on different dates and had passed the Departmental Accounts Examination (DAE) as per the relevant Regulations. Petitioners have since retired from different posts such as Clerk, UDC, Accountant, Superintendent, Head Clerk, Circle Superintendent etc.

It is submitted that **CWP-9342-1988** titled as **Jagdish Singh Vs. Haryana State Electricity Board** and thereafter **LPA-192-1993** titled as **Haryana State Electricity Board Vs. Jagidsh Singh** came to be decided

by this Court on 10.09.1992 and 24.09.1998 respectively and it was held that seniority list of UDCs be revised and directly recruited UDCs, who had failed to qualify the Departmental Accounts Examination within 2 years or 5 successive chances, should be placed below those UDCs, who had qualified the examination. Precise contention raised is that the petitioners herein are senior to private respondents No.4 to 10 on account of having passed the Departmental Accounts Examination prior in point of time and as such they are entitled to benefit of promotion, pay fixation, arrears of salary, revised pensionary benefits w.e.f. the date such benefits had been granted to their juniors. Heavy reliance has been placed upon judgment rendered by a Coordinate Bench in **CWP-21603-2016 (Mithan Lal Gupta Vs. State of Haryana & others)** decided on 09.01.2019 (Annexure P-15) to contend that the petitioner therein was also seeking identical relief at par with his junior, namely, Maha Singh and since the relief has been allowed, present petitioners are entitled to parity of treatment.

Having heard counsel for the petitioners at length and having perused the pleadings on record, this Court is of the considered view that a highly belated claim is sought to be raised and the writ petition deserves to be dismissed on the ground of delay.

A tabulation furnished in para 2 of the writ petition would show that the petitioners stand retired on different dates between the years 1998-2013. Counsel during the course of hearing has conceded that the claim as sought in the instant petition was for the first time raised before the respondent/authorities only in terms of issuance of a legal notice dated 03.01.2020 (Annexure P-14) and that too, after passing of judgment dated

09.01.2019 in **Mithan Lal Gupta's case (supra)** at Annexure P-15. In other words, during their entire tenure of service, the petitioners did not even raise their little finger for grant of various service benefits as has been prayed for in the instant writ petition. Most of the petitioners herein superannuated more than a decade back and some of them retired more than 20 years ago.

It is by now well settled that delay and laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India in such a situation of gross delay would not be attracted as law leans in favour of those who are alert and vigilant. Even equality has to be claimed at the right juncture and not on expiry of reasonable time. Even if there is no period prescribed for filing the writ petition under Article 226 of the Constitution of India, yet it should be filed within a reasonable time. A reference in this regard may be made to the judgment of the Apex Court in **State of Uttranchal & another Vs. Sri Shiv Charan Singh Bhandari & others**, 2013(6) SLR 629.

In **A.P. Steel Re-rolling Mill Limited Vs. State of Kerala & others (2007) 2 SCC 725**, the question arose before the Hon'ble Supreme Court with regard to extending benefit of a judgment in favour of a subsequent litigant, who was similarly situated but had approached the competent Court after certain delay and it was observed as follows:

“The benefit of a judgment is not extended to a case automatically. While granting relief in a writ petition, the High Court is entitled to consider the fact situation obtaining in each case including the conduct of the petitioner. In doing so, the Court is entitled to take into consideration the fact as to whether the writ petitioner had chosen to sit over the matter and then wake up after the decision of this Court. If it is found

that the appellant approached the Court after a long delay, the same may dis-entitle him to obtain a discretionary relief.”

Even the judgment passed by the Coordinate Bench in **Mithan Lal Gupta's case (supra)** would not enure to the benefit of the petitioners. In such matter, the petitioner, Mithan Lal Gupta had retired as a Head Clerk on 31.08.2004. His junior Maha Singh had been granted certain service benefits vide order dated 30.10.2014. Mithan Lal Gupta filed CWP-1754-2016 claiming the same benefits and such petition was disposed of by this Court on 28.01.2016 by giving directions to the respondents to pass a speaking order on a legal notice. An order dated 09.06.2016 thereafter came to be passed rejecting the claim of Mithan Lal Gupta. He immediately thereafter filed CWP-21603-2016 assailing the order of rejection and it is such writ petition that came to be allowed on 09.01.2019 (Annexure P-15). The facts, as such, are clearly distinguishable. Rather in the present case, petitioners are claiming the same relief that as per them had been granted to their juniors i.e. private respondents No.4 to 10. It is not discernible from the pleadings on record as regards the precise point of time when the juniors had been granted service benefits which the petitioners are now claiming by way of filing the instant writ petition in the year 2020 and after retiring from service more than 10 years back.

The writ petition suffers from inordinate delay and laches.

Dismissed.

05.10.2020

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |