

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

CWP-6186-2016

Date of Decision: March 13, 2020

Krishan Kumar Verma

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Mannat Anand, Advocate,
for Mr. Rajesh Goyal, Advocate,
for the petitioner.

Mr. Randhir Singh, Addl. AG, Haryana,
for the respondents.

RITU BAHRI, J. (ORAL)

This petition, filed under Article 226 of the Constitution, seeks to quash order dated 08.09.2015 (Annexure P-6), passed by respondent No. 2, vide which the representation filed by the petitioner claiming benefit of seniority has been declined. Further prayer has been made for directing the respondents to grant same benefit as has been granted to one Shri Ashok Kumar pursuant to judgment dated 30.07.2009 (Annexure P-2), passed by this Court in CWP No. 2768 of 1988 (Gurjit Singh and another v. State of Haryana and others).

The petitioner was selected as a Clerk through Subordinate Service Selection Board, Haryana, vide selection list dated 16.12.1971, and he joined on 28.12.1971 in the office of the General Manager, Haryana Roadways, Chandigarh. Vide order dated 22.11.1983 (Annexure P-1), he alongwith other Clerks, was ordered to be adjusted from the office of the

General Manager, Haryana Roadways, Chandigarh, to the office of the State Transport Commissioner, Haryana, Chandigarh. The said arrangement was made purely on temporary basis and nothing was mentioned as regards assigning of fresh seniority from the date of joining in the Head Office. The petitioner was sanguine that he will get the benefit of previous service rendered in the office of General Manager, Haryana Roadways, Chandigarh, i.e. from 28.12.1971 to 22.11.1983, after being adjusted in the Head Office. Since some of similarly situated employees who were working in the Government Central Workshop, Chandigarh, had been granted the benefit of seniority to them, whereas the petitioner was denied the same treatment, he was compelled to file CWP No. 2457 of 2001 in this Court and the said petition was admitted.

In another case bearing CWP No. 2768 of 1988, titled as Gurjit Singh and another v. State of Haryana and others, while disposing of the said case vide order dated 30.07.2009 (Annexure P-2), this Court directed that the case of the petitioners therein will be considered for allowing seniority from the date of their appointment and they shall be permitted all consequential benefits of their seniority from the date of appointment.

On 10.02.2014, when the writ petition preferred by the petitioner came up for hearing, it was prayed that the same be dismissed as withdrawn with liberty to file a detailed representation seeking the same benefits as were claimed in the said writ petition. Reference was also made to the judgment and order dated 30.07.2009 (Annexure P-2) passed

in CWP No. 2768 of 1988 and a subsequent order dated 27.04.2010 (Annexure P-7). Accordingly, the writ petition, i.e. CWP No. 2457 of 2001, filed by the petitioner was disposed of with the liberty prayed for (Annexure P-3). Pursuant to the said decision, the petitioner submitted a detailed representation dated 19.02.2014 (Annexure P-4). Thereafter, the petitioner was communicated order dated 31.08.2015/08.09.2015 (Annexure P-6), rejecting the representation made by him, by assigning the following reasons:

- “1. The petitioner was selected as Clerk-cum-typist through S.S.S. Board, Haryana, vide selection list dated 28.12.1971 at Sr. No. 21 whereas S/Sh Gurjeet Singh, Ashok Kumar, Ram Chander Jindal, Major Singh and Virender Kumar was appointed as Clerk-cum-typist in the year 1973. So selection list is not the same.*
- 2. One Sh. Shyam Lal, who was at Serial No. 4 & others of the selection list of the year 1971 filed CWP No. 2955 of 1985. Another one Sh. Nand Kumar of the same list, who was at Sr. No. 44 filed CWP No. 18093 of 1991. These writ petitions were filed by the petitioners for directions to respondents (Transport Department) to maintain a common seniority list of all Clerks recruited through S.S.S. Board, Haryana, whether posted in the head Office or in the field depots and to promote them on the basis of seniority-cum-merit and for the grant of any appropriate relief. These writ petitions were clubbed and disposed of vide common judgment dated 04.05.2009 and operative part of the same is reproduced as under:*

“In my opinion, the judgment in V.A. Raman’s case (supra) relates only a situation where

seniority of persons from open market and departmental candidates is to be determined. Further, a perusal of the facts of the above case reveals that the writ petition was filed before the High Court with promptitude and not after so many years' delay. Consequently, finding no merit dismissed with no order as to costs".

3. *Against the above judgment dated 04.05.2009, the petitioner filed a LPA No. 999 of 2009, Nand Kumar V/s State of Haryana and LPA No. 1150 of 2009 Mahabir Jain V/s State of Haryana and the same were also dismissed vide judgment dated 18.11.2010 with the observations as under:*

"Therefore, it is appropriate that there is a huge delay in filing of the petition and settled rights could not be upset by issuance of writ after such a long period.

There is, thus, no merit in these appeals.

Dismissed."

Petitioner Sh. Krishan Kumar Verma of the present writ petition was at Sr No. 21 in the same merit list of the year 1971 prepared by the S.S.S. Board, Haryana and seniors to the petitioner Sh. Nand Lal etc., who was at Sr. No. 4 in the merit list of the year 1971 have claimed the same benefit as the petitioner is claiming in the representation, which have already been declined by the Hon'ble High Court as explained above.

Hence, keeping in view of the facts explained above, as the benefit to similarly situated persons have been declined by the Hon'ble High Court vide judgment dated 18.11.2010 the benefits as asked for by the petitioner cannot be granted. In

view of it the representation of the petitioner considered and being devoid of merits is rejected.”

Feeling aggrieved, the petitioner has filed the present petition, assailing the impugned order dated 31.08.2015/08.09.2015 (Annexure P-6).

Upon notice, respondents have filed their written statement, wherein they have admitted the judgment dated 30.07.2009, passed by this Court in CWP No. 2768 of 1988. It is further admitted that the petitioner had filed CWP No. 2457 of 2001, which was disposed of on 10.02.2014 and thereafter his representation has been considered and rejected being devoid of any merits.

I have heard learned counsel for the parties and perused the records.

The short question for consideration in the present writ petition is that whether the petitioner who was selected as a Clerk by the Haryana Subordinate Services Selection Board in the year 1971 and posted in the Field Office, upon his adjustment to the Head Office in the year 1983, can be assigned seniority from the date of joining as Clerk in the Field Office.

Perusal of the impugned order (Annexure P-6) reveals that Shyam Lal and others had filed CWP No. 2955 of 1985, while Nand Kumar had filed CWP No. 18093 of 1991. All of them were also selected in the same batch, i.e. in the year 1971. The said writ petitions were filed seeking directions to maintain a common seniority list of all Clerks recruited through S.S.S. Board, Haryana, whether posted in the Head

Office or in the Field Depots and to promote them on the basis of seniority-cum-merit. These petitions were dismissed vide judgment dated 04.05.2009 (Annexure R-1). Thereafter the appeals against the said judgment, i.e. LPA Nos. 999 and 1150 of 2009, were also dismissed on 18.11.2010 (Annexure R-2). In both the said judgments it has been observed that there was huge delay in filing the petitions and settled rights could not be upset by issuance of writ after such a long period.

It is not the case of the petitioner that he was sent to the Head Office from the Field Office against his consent. If the petitioner was not assigned seniority from the date of initial joining in the Field Office, as has been claimed in the present petition, the cause of action had arisen to him in the year 1983 itself. It is admitted case of the petitioner that he had approached this Court for the first time in the year 2001, by filing CWP No. 2457 of 2001, i.e. after a gap of 18 years. Thereafter, he also retired from service from the post of Accountant on 30.04.2005. Prior to final adjudication of the said writ petition on merits, the same was got dismissed as withdrawn by the petitioner with liberty to file a representation to the respondents. The representation of the petitioner has been duly considered and rejected by the respondents vide impugned order (Annexure P-6). The course of action adopted by the petitioner will not automatically condone the huge and unexplained delay of 18 years in approaching the Court. The petitioner cannot be allowed to take any benefit by asserting that a fresh cause of action has accrued to him after passing of the impugned order dated 31.08.2015/08.09.2015 (Annexure P-6) and that he has immediately

approached the Court by filing the petition at hands. He cannot be allowed to claim parity or any benefit of the judgment dated 30.07.2009 (Annexure P-2), rendered in the case of Gurjit Singh and another (supra), especially when the writ petitions as well as appeals filed by his batchmates, as indicated above, have already been dismissed and attained finality.

In conspectus of the above, this petition sans merit and is accordingly dismissed.

(RITU BAHRI)
JUDGE

March 13, 2020

Pk Kapoor

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO