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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP No.37452 of 2019  
Date of Decision: 29.01.2020

O.P. Sardana

.....Petitioner

Versus

Haryana Sahari Vikas Pradhikaran and others

.....Respondents

**CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR**

Present: Mr. S.K. Malik, Advocate  
for the petitioner.

**NIRMALJIT KAUR, J. (ORAL)**

The present writ petition is filed for quashing of the seniority list dated 21.10.1994 with a further prayer the petitioner should be placed at Sr.No.10 in the seniority list instead of Sr. No.31.

Admittedly, the seniority list is of the year 1994, whereas, the present writ petition is filed in the year 2020 after a gap of 26 years. Moreover, the petitioner was allegedly due for promotion in the year 1988 but he was promoted in the year 2006 but even at that point of time he did not raise any objection or challenge the same. The petitioner has since retired in the year 2014. No explanation for the delay is forthcoming.

The argument that in case the relief is granted to the petitioner, it will enhance his pension and in case he is denied the relief, it would amount to recurring loss and therefore, delay is not fatal deserves to be rejected in view of the facts as well as the settled principle of law on the question of delay.

In the case of Tarsem Pal vs. Punjab State Power Corporation

Limited and others, 2013(3) SLR 314, 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 issue of delay after taking into consideration the judgment rendered by the Hon'ble Apex Court in the case of M.R. Gupta Vs. Union of India and others, 1995 (4) RSJ 502, and placing reliance on the judgment rendered by the Hon'ble Apex Court in the case of Jagdish Lal Vs. State of Haryana, (1997) SCC 538, the Co-ordinate Bench of this Court in the case of Prem Nath and others Vs. State of Punjab and others, CWP No.9025 of 2016, decided on 14.07.2017, dismissed the petition on the question of delay, wherein the petitioner chose to agitate only after the retirement, by observing as under:-

“9. At this stage, counsel appearing for the petitioners would make an attempt to overcome the obstacle of delay by placing reliance upon a Full Bench Judgment of this Court in **Saroj Kumar vs. State of**

**Punjab, 1998(3) SCT 664.** Counsel would argue that as per dictum laid down in *Saroj Kumar's case(supra)*, matters of pay fixation involve a recurring cause of action and as such, writ petitions for such claim cannot be dismissed on the ground of delay and laches and the Court at the most, may restrict the arrears upto 38 months from the date of filing of the petition and disallow the arrears for the period for which even a suit had become time barred.

10. The reliance placed by counsel upon the judgment in *Saroj Kumar's case*, is wholly misplaced . The observations and aspect of delay in *Saroj Kumar's case*, were in the light of the judgment of the Supreme Court in **M.R. Gupta vs. Union of India and others, 1995(4) RSJ 502.** In *M.R. Gupta's case(supra)*, it had been categorically held that so long as an employee “is in service” a fresh cause of action arises every month when he is getting his monthly salary on the basis of a wrong calculation made contrary to rules. It was further held that the claim to be awarded the correct salary on the basis of a proper pay fixation “*is a right which subsists during the entire tenure of service*”.

11. In the present case, however the petitioners choose not to agitate their claim while in service. It is much subsequent to their superannuation that they have woken up and seek to gain impetus from certain decisions that may have been rendered in the case of similarly situated employees.

12. Considering the dictum of law as laid down in *Chariman, U.P. Jal Nigam's case (supra)*, the petitioners herein are not entitled to any relief as prayed for and the petition deserves to be dismissed on the sole ground of delay and laches.”

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In the present case, the petitioner is raising the plea after a gap of 26 years and that too for setting aside the seniority list of the year 1994.

In view of the above, the present writ petition is accordingly dismissed on the ground of delay and latches.

**29.01.2020**

*sandeep*

**(NIRMALJIT KAUR)**  
**JUDGE**

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No