

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

117

CWP No.8544 of 2021

Decided on : 20.04.2021

Bhal Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Sahil Khunger, Advocate
for the petitioner.

(The proceedings have been conducted through video
conferencing, as per instructions.)

G.S. Sandhawal, J. (Oral)

Challenge in the present writ petition filed under Articles 226/227 of the Constitution of India is to the order dated 07.09.2020 (Annexure P-14), whereby respondent No.2 has rejected the claim for the grant of the *ad hoc* interim relief, which was deducted and adjusted in the year 1973-1974.

The reasoning by the said respondent is that on account of the other employees having litigated within time, the petitioner, by serving a belated representation and legal notice in the year 2012, could not revive the cause of action.

Notice of motion.

Mr. RKS Brar, Addl. AG, Haryana accepts notice on behalf of the respondents/State. Soft copy of the paper-book be supplied to him during the course of the day.

It is not disputed that the petitioner has retired in the year 2012 and now is seeking the benefit of the said amount and seeking re-fixation, in view of the judgment dated 11.08.2003 (Annexure P-11). A perusal of the said order would go on to show that the same was disposed of by following

the view which was taken by the Division Bench while deciding **CWP No.16084 of 1997 'Dharam Pal Singh Vs. State of Haryana and others'** on 27.07.2000 (Annexure P-9).

A perusal of the said Division Bench judgment would go on to show that the petition was filed in the year 1997 and the issue was regarding the letter dated 20.03.1979 and reliance had been placed upon an earlier writ petition of 1990.

As noticed the petitioner alongwith others woke up on 10.11.2017 (Annexure P-10) claiming the same relief on the basis of the earlier decisions. Thereafter, the said set of persons had approached this Court in CWP No.1628 of 2019, whereby they had sought directions for re-fixation of the pay on the ground that they are similarly effected. This Court disposed of the writ petition on the ground that a representation has been moved, which has led to the passing of the impugned order.

The Apex Court in the case of **Government of India and another Vs. P. Venkatesh 2019 (2) SCT 173** has held that directions issued by the Court to decide representations are leading to fueling of litigation and the said principle was in a case of compassionate appointment. Relevant part of the said judgment reads as under:-

“8. These successive orders of Tribunal for re-consideration of the representation cannot obliterate the effect of the initial delay in moving the Tribunal for compassionate appointment over a decade after the death of the deceased employee. This ‘dispose of the representation’ mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice.

The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute. By the time, the High Court issued its direction on 9 August 2016, nearly twenty one years had elapsed since the date of the death of the employee.”

The said principle can also be held applicable in the present facts and circumstances, as noticed the petitioner has chosen not to agitate for his grievances from 1974 onwards and he had retired way back in the year 2012 also. Merely because some persons who had contested at an earlier point of time and were successful in their litigation would not as such entitle the petitioner to invoke the extra-ordinary jurisdiction of this Court. The Apex Court in the case of **State of Uttar Pradesh & others Vs. Arvind Kumar Srivastava & others 2015 (1) SCC 347**, has also held to the same effect that the persons who were fence-sitters cannot be permitted to litigate at the asking. Relevant part of the said judgment reads as under:-

“23 ----- 2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.”

The Coordinate Bench in **Nathu Ram Sharma & another Vs. State of Punjab & others 2015 (2) SCT 631** while dealing with the relief of service benefits and arrears which were claimed after delay of 6 years and after similarly situated persons had been granted relief, kept in mind the judgments of the Apex Court in **State of M.P. & others Vs. Nandlal Jaiswal & others AIR 1987 SC 251**, **State of Karnataka & others Vs. S.M.Kotrayya & others (1996) 6 SCC 267**, **Jagdish Lal & others Vs. State of Haryana & others (1997) 6 SCC 538**, **Government of W.B. Vs. Tarun K. Roy & others (2004) 1 SCC 347**, **Chairman, U.P. Jal Nigam & another Vs. Jaswant Singh & another 2006 (11) SCC 464**, **Chennai Metropolitan Water Supply and Sewerage Board & others Vs. T.T. Murali Babu 2014 (2) SCT 193** & **Suraj Mal Vs. State of Haryana 2015 (1) SCT 31** and dismissed the petition. Thus, keeping in view the fact that the attitude of the Government employee was that of a Rip Van Winkle and there was acquiescence and acceptance of the benefits granted to similarly situated employees wayback in 2002, delay would come in the way of equity and the Writ Court would chose not to address the same on merits, in view of the above settled position of law.

In such circumstances, this Court is of the opinion that no case as such is made out to interfere in the order dated 07.09.2020 (Annexure P-14) passed by respondent No.2, whereby the claim of the petitioner has been rejected. Resultantly, the writ petition stands dismissed.

April 20, 2021

sailesh

Whether speaking/reasoned:
Whether Reportable:

(G.S. SANDHAWALIA)

JUDGE

Yes/No
Yes/No