

[211-2nd case]

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM No.9727 of 2021 in/and
CWP No.13234 of 2019

Date of Decision : 01.12.2021

Const. Sandeep Kumar

...Petitioner

Versus

State of Haryana and Ors.

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. G.S. Gopera, Advocate for the petitioner.
Ms. Upasana Dhawan, AAG, Haryana.

B.S. Walia, J. (Oral)

CM No.9727 of 2021

Learned AAG states that she has no objection to the prayer
for preponement of the main case and for hearing of the same today.

Accordingly, in view of the statement of the learned AAG,
the application is allowed and date of hearing of the main case is
preponed from 07.04.2022 to today itself and with the consent of learned
counsel for the parties, the main case is taken up for hearing today itself.

Main Case

[1] Prayer in the petition under Articles 226 / 227 of the
Constitution of India, is for the issuance of a writ, order or direction
especially in the nature of certiorari for quashing orders, Annexures P/2
and P/4 dated 03.10.2016 and 05.12.2016 passed by respondent Nos. 4
and 3 respectively as also non-communicated decision dated 19.01.2018

passed by respondent No. 2 on the revision, Annexure P/5, against

impugned orders, Annexure P/2 and P/4 rejecting the claim of the petitioner for grant of deemed date of appointment, seniority and notional increments w.e.f. the date persons junior to him were allowed to join as Constable (Driver). Reliance is placed on the relief granted to another Constable, i.e. Yashpal, vide order Annexure P/9 dated 09.08.2018.

[2] Learned Counsel contends that the petitioner was selected as Constable (Driver) in the year 2002 at serial No. 27 of the merit list and was issued letter No.13045-143 dated 26.05.2002 by the Superintendent of Police, Gurgaon for medical examination as well as verification of educational certificates and driving license. However, the petitioner was not allotted Constabulary number on the ground that his driving license was fake / bogus, whereupon FIR No.275 dated 20.10.2002 was registered against the petitioner under Sections 420, 467 and 471 IPC at Police Station Sohna. Eventually, the petitioner was acquitted in the aforementioned criminal case vide judgment of the learned trial Court dated 09.12.2009. Thereafter, the petitioner submitted representation on 11.05.2010 for allotment of Constabulary number which was rejected by respondent No. 4. Appeal filed by the petitioner against order rejecting representation dated 11.05.2010 was accepted by respondent No.3 vide memo No.7759/A-1 dated 19.11.2010 and the petitioner was allotted Constabulary Number 241/IRB in 1st IRB on 02.02.2011. Thereafter the petitioner submitted representation, Annexure P/1 dated 26.09.2016 for grant of deemed date of appointment as Constable (Driver) along with all consequential benefits such as seniority, fixation of notional pay as well as consequential promotion with effect from the date Constables at Serial

2002. Representation Annexure P/1 was rejected by respondent No.4 vide order, Annexure P/2 dated 03.10.2016. The petitioner filed an appeal, Annexure P/3 dated 17.10.2016 against rejection of representation, but the same was dismissed by respondent No.3 vide order, Annexure P/4 dated 05.12.2016. Revision, Annexure P/5 dated 03.01.2017 was filed by the petitioner against orders, Annexure P/2 and P/4 but no decision was taken on the same, whereupon the petitioner invoked the jurisdiction of this Court by way of the instant petition while relying on the decision in LPA No.2503 of 2016 in case titled as 'Commando Constable Jaivir versus State of Haryana and others.'

[3] Reply has been filed by respondent No. 4 on behalf of all respondents' opposing the relief claimed inter alia amongst others on the ground of delay and laches by contending that the petitioner was allotted a Constabulary Number on 02.02.2011 but he maintained a stoic silence for 5 ½ years and only thereafter filed representation, Annexure P/1 on 26.09.2016 before respondent No.4 whereas as per Standing Order No. 65 of 1998 issued by the Director General of Police, Haryana vide endorsement No.2017-50/B-3 dated 08.02.1999, it is clearly mentioned that "no competent authority shall consider any representation qua an order, against which the person is aggrieved, is more than five years old". Reliance has also been placed on the decision of Hon'ble the Supreme Court in **State of Punjab vs. Gurdev Singh, AIR 1992 (SC) 111** wherein it has been contended that if statutory time limit for filing of representation / appeal has expired, the Court cannot give benefit to the person / employee who filed representation after the expiry of the statutory time limit i.e. 03 years from the date of original order, whereas in the instant case, since the petitioner did not file representation for more than 5 ½ years, therefore, he is not entitled

for the relief prayed for. Reliance has also been placed on decision dated 11.12.1997 in **Civil Appeal No.7605-7610 of 1996 in case titled as B.S. Bajwa and another vs. State of Punjab and ors** wherein, Hon'ble the Supreme Court held that in service matters, seniority should not be reopened after lapse of the prescribed period of limitation. It has also been contended that acquittal of the petitioner was not on merits but on account of benefit of doubt, material witnesses having turned hostile, record of the licensing authority having been destroyed in a fire as also on account of the licensing authority admitting that signatures on the alleged license appeared to be forged and also that report of verification made by the DTO, Faridabad vide DL No.2544/98/RTA/FBD of Sandeep son of Shri Dharambir Singh, r/o Daultabad had not been issued by the office and was fake and that the NOC had also not been issued by the office and was also fake. It has further been contended that the instant petition was filed on 14.05.2019 despite it being the admitted stand of the petitioner that revision petition was dismissed vide order dated 19.01.2018.

[4] I have heard learned counsel, considered their submissions as well as perused the pleadings.

[5] Admittedly, the petitioner was selected in the year 2002, but was not allowed to join on account of driving license of the petitioner being found to be fake / bogus. Thereafter, FIR under Sections 420, 467, 468 and 471 IPC was registered against the petitioner at Police Station Sohna on 20.10.2002. No doubt the petitioner was acquitted in the said case vide judgment of the trial court dated 09.12.2009 but the same was on the basis of benefit of doubt, record pertaining to driving license having been destroyed in a fire in the office of the DTO, Faridabad as also the material witnesses

Constabulary number was rejected by respondent No.4 and appeal filed by the petitioner against said order was accepted by respondent No.3 vide memo No.7759/A-1 dated 19.11.2010 and the petitioner was allotted Constabulary Number 241/IRB in 1st IRB on 02.02.2011. However, the petitioner was content with allotment of Constabulary Number w.e.f. 02.02.2011, as he maintained a stoic silence and only 5 ½ years later woke up and submitted representation, Annexure P/1 dated 26.09.2016 for grant of deemed date of appointment as Constable (Driver) along with all consequential benefits with effect from the date Constables mentioned in selection list from serial No.28 onwards were given appointments in the year 2002. Representation Annexure P/1 was rejected by respondent No.4 vide order, Annexure P/2 dated 03.10.2016 in the light of Standing Order No.65 of 1998 issued by the Director General of Police, Haryana. The petitioner filed an appeal, Annexure P/3 against rejection of his claim for grant of deemed date of appointment as Constable (Driver) with effect from the date other selected candidates had been appointed before the IGP, IRB, Bhondsi, Distt. Gurgaon by relying on decision dated 21.07.2016 in CWP No. 5963 of 2014 in case titled as Constable Sanjay Kumar vs State of Haryana and others but the same was rejected by respondent No. 3 vide order Annexure P/4 dated 05.12.2016. Relevant extract of the same is reproduced as under:-

“I have carefully gone through the representation. The facts of this case are true as per record. But the claim of Ct. Sandeep Kumar, No.1/241 IRB regarding granting him deemed date of appointment as Constable (Driver) i.e. the date of his selection as Constable driver in the year 2002 is not correct. He was appointed as Constable driver) in the year 2011 and he is

claiming seniority from Eight years back which is not justifiable. Moreover, as per Standing Order No.65 of 1998 issued by the Director General of Police, Haryana vide Endst No.2017-50/B-3 dated 08.02.1999 the Hon'ble Supreme Court of India in its order dated 11.12.97 passed in Civil Appeal No.7605-7610 of 1996 titled B.S. Bajwa and another Vs. State of Punjab and Others, has held that in service matters, the question of seniority should not be re-opened after the lapse of reasonable prescribed period because that results in disturbing the settled position, which is not justifiable. In matters of fixation of seniority, which are long settled, it would not be proper to re-fix seniority, which would damage settled inter-se-relativities without issuing show cause notice to other affected personnel. A decision once taken by a competent authority, shall not be reviewed by the same authority unless fresh grounds which were not known earlier are brought on record. In case fresh ground, which were not known earlier are brought on record, the competent authority may forwarded the representation to the higher authority with his comments and recommendations or suo motto inform the higher authority of the matter and seek a decision.

Hence, this representation is hereby rejected.”

[6] The petitioner filed a revision petition, Annexure P/5 dated 03.01.2017 against orders, Annexure P/2 and P/4 and thereafter invoked the jurisdiction of this Court by way of the instant petition on 14.05.2019 on rejection of the revision, Annexure P/5 by respondent No.1 vide order dated 19.01.2018.

[7] Be as it may, the petitioner was selected in the year 2002 but was not given appointment on account of his driving license having been found to be fake / bogus, eventually leading to registration of FIR on 20.10.2002. The petitioner was acquitted in said case on 09.12.2009 on account of destruction of the record in a fire as well as by giving him benefit of doubt on account of material witnesses having turned hostile etc. Representation for being allowed to join, was rejected by respondent No. 4, but appeal against the same was accepted by the IGP, IRB, Bhondsi, Gurugram and the petitioner was allotted Constabulary Number and joined as such on 02.02.2011 without any protest or demur. The petitioner maintained a stoic silence for more 5 ½ years and only thereafter, submitted representation, Annexure P/1 dated 26.09.2016 which was rejected by respondent No.4 vide order dated 03.10.2016. Thereafter, the petitioner filed an appeal against said decision by relying on decision dated 21.07.2016 in CWP No. 5963 of 2014 in case titled as Constable Sanjay Kumar vs State of Haryana and others which was rejected by the IGP vide order, Annexure P/4 dated 05.12.2016. Against decision, Annexure P/4 dated 05.12.2016, the petitioner filed a revision, Annexure P/5 on 03.01.2017 and although the same was dismissed on 19.01.2018, the petitioner invoked the jurisdiction of this Court on 14.05.2019 without challenging order dated 19.01.2018. Despite pendency of the writ petition for more than 2 ½ before this Court, the petitioner made no effort whatsoever to amend the writ petition so as to incorporate a challenge to order dated 19.01.2018 dismissing the revision petition.

[8] The claim of the petitioner was rejected by the IGP, IRB, Bhondsi, Gurgaon vide order Annexure P/4 dated 05.12.2016 by a well-reasoned and

speaking order and by taking into account delay and laches as also the

decision of Hon'ble the Supreme Court in B.S. Bajwa's case (Supra) that in service matters question of seniority should not be reopened after the lapse of reasonable prescribed period as the same would result in disturbing settled position and that in matters of fixation of seniority, long settled, it would not be proper to re-fix seniority as the same would damage settled inter se relativities without issuing show cause notice to all other affected personnel and that a decision once taken by the competent authority, should not be reviewed by the same authority unless fresh grounds which were not earlier known were brought on record. In the instant case, no fresh ground which was not known earlier was brought on record etc. besides, the claim of the petitioner is hit by delay and laches as the same was made 5 ½ years after allotment of Constabulary Number. Reliance on decision dated 21.07.2016 in Sanjay Kumar's writ petition has to be rejected on account of said employee having invoked the jurisdiction of this Court at the appropriate time while the petitioner remained a passive fence sitter for 5 ½ years without having invoked the jurisdiction of a Court of Law at the appropriate stage. Likewise, reliance on the decision, Annexure P/9 has also to be rejected on the ground that Yashpal who had initially been denied appointment had filed CWP No.18806 of 2009 which was disposed of vide order dated 08.09.2009 by directing the Director General, Police to decide the legal notice. Pursuant thereto, said candidate was allotted Constabulary No.3/205 vide office order No.4581-88 dated 28.07.2010. Thereafter, said Constable Yashpal filed CWP No. 5348 of 2018 for re-determination of seniority and grant of all consequential benefits i.e. notional increments and arrears of pay. The said writ petition was disposed of by passing the following order:-

“The petitioner would be at liberty to press his representation before the competent authority who will hear him and accordingly pass a speaking order within a reasonable time after hearing the petitioner. Accordingly, the petition is disposed of in above terms.”

[9] Pursuant to hearing, Constable Yashpal, who was at Sr. No.78 in the General Category was vide Annexure P-9 dated 09.08.2018 given notional appointment w.e.f. 06.07.2008 instead of 28.07.2010 without arrears of pay and allowances for the period w.e.f. 06.07.2008 and his pay was ordered to be fixed separately w.e.f. 06.07.2008 to 01.07.2018. However, the acceptance of the claim vide Annexure P/9 is contrary to the decision of Hon’ble the Supreme Court in **C. Jacob vs Director of Geology and Mining and another, (2008) 10 SCC 115 (SC)**. Relevant extract of the same is reproduced as under:-

“6. Let us take the hypothetical case of an employee who is terminated from service in 1980. He does not challenge the termination. But nearly two decades later, say in the year 2000, he decides to challenge the termination. He is aware that any such challenge would be rejected at the threshold on the ground of delay (if the application is made before Tribunal) or on the ground of delay and laches (if a writ petition is filed before a High Court). Therefore, instead of challenging the termination, he gives a representation requesting that he may be taken back to service. Normally, there will be considerable delay in replying such representations relating to old matters. Taking advantage of this position, the ex-employee files an application / writ petition before the Tribunal / High Court seeking a direction to the employer to consider and dispose of his representation. The Tribunals / High Courts routinely

allow or dispose of such applications / petitions (many a time even without notice to the other side), without examining the matter on merits, with a direction to consider and dispose of the representation. The courts / tribunals proceed on the assumption, that every citizen deserves a reply to his representation. Secondly they assume that a mere direction to consider and dispose of the representation does not involve any 'decision' on rights and obligations of parties. Little do they realise the consequences of such a direction to 'consider'. If the representation is considered and accepted, the ex-employee gets a relief, which he would not have got on account of the long delay, all by reason of the direction to 'consider'. If the representation is considered and rejected, the ex-employee files an application / writ petition, not with reference to the original cause of action of 1982, but by treating the rejection of the representation given in 2000, as the cause of action. A prayer is made for quashing the rejection of representation and for grant of the relief claimed in the representation. The Tribunals / High Courts routinely entertain such applications / petitions ignoring the huge delay preceding the representation, and proceed to examine the claim on merits and grant relief. In this manner, the bar of limitation or the laches gets obliterated or ignored.

7. Every representation to the Government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. In regard to representations unrelated to the department, the reply may be only to inform that the matter did not concern the department or to inform the appropriate department. Representations with incomplete particulars may be replied by seeking

relevant particulars. The replies to such representations, cannot furnish a fresh cause of action or revive a stale or dead claim.

8. When a direction is issued by a court/tribunal to consider or deal with the representation, usually the directee (person directed) examines the matter on merits, being under the impression that failure to do may amount to disobedience. When an order is passed considering and rejecting the claim or representation, in compliance with direction of the court or tribunal, such an order does not revive the stale claim, nor amount to some kind of 'acknowledgment of a jural relationship' to give rise to a fresh cause of action. "

[10] Likewise in **Union of India and others v. M. K. Sarkar, (2010) 2 SCC 59**, it was held that when a belated representation in regard to a “stale” or “dead” issue / dispute was considered and decided, in compliance of a direction of any Court / Tribunal, the date of such decision could not be considered as furnishing a fresh cause of action for reviving a “dead” issue or time-barred dispute and the issue of limitation or delay and laches is to be considered with reference to the original cause of action and not with reference to the date on which an order was passed in compliance of a Court's direction and that a Court's direction to consider a representation without examining nor a decision given in compliance of such directions, extended limitation, or erased delay and laches.

[11] As far as the claim is on the basis of decision in CWP No.5963 of 2014 in Sanjay Kumar’s as well as Yashpal’s case is concerned reference can be made to the decision of Hon’ble the Supreme Court in ‘**Ghulam Rasool Lone versus State of J&K and another**’ wherein (SLP (Civil) No. 14126 of 2009 was dismissed on the ground of delay and laches as also on

account of the petitioner being a fence-sitter and having approached a Court of law after the decision of another employee who had been diligently pursuing his claim. Relevant extract of the same is reproduced as under:-

“ 11. There cannot be any doubt whatsoever that keeping in view the equal protection clause contained in Articles 14 of the Constitution of India as also [Article 16](#) thereof, all the employees should be treated equally. Equality clause, however, must be enforced in legality and not illegality.

12. & 13. xxx xxx xxx

14. The discretionary jurisdiction under [Article 226](#) of the Constitution may, however, be denied on the ground of delay and laches. It is now well settled that who claims equity must enforce his claim within a reasonable time.

15. & 16. xxx xxx xxx

17. It is beyond any cavil of doubt that the remedy under [Article 226](#) of the Constitution of India is a discretionary one. For sufficient or cogent reasons a court may in a given case refuse to exercise its jurisdiction ; delay and laches being one of them.

18. While considering the question of delay and laches on the part of the petitioner, the court must also consider the effect thereof. Promotion of Hamidullah Dar was effected in the year 1987. Abdul Rashid Rather filed his writ petition immediately after the promotion was granted. He, therefore, was not guilty of any delay in ventilating his grievances. It will bear repetition

to state that the petitioner waited till Abdul Rashid Rather was in fact promoted. He did not consider it necessary either to join him or to file a separate writ petition immediately thereafter, although even according to him, Abdul Rashid Rather was junior to him.

The Division Bench, therefore, in our opinion rightly opined that the petitioner was sitting on the fence. ”

[12] Likewise, Hon’ble the Division Bench of this Court in case titled as ‘Sukhbir Singh and others versus State of Haryana and others’, decided on 31.08.2016, dismissed LPA No.1662 of 2015 on the ground that the appellants had taken no steps to claim the benefit of the Government Policy for over 12 years and that they could not take the benefit of the case on another employee being granted the benefit, as the writ petitioners in the other case had approached the Court, while the appellants had remained fence-sitters and that assuming that the appellants were similarly placed as the employees who were granted benefits, yet the appellants had lost their right as neither such claim was put up by them before the competent authority nor they approached any other forum within a reasonable period of time and that in view of the matter, the rejection of their claim by the learned Single Judge on the ground of delay and laches called for no interference. Relevant extract of the same is reproduced as under:-

“7. The fact that the appellants took no steps to claim the benefit of Government policy of 1979 for over 12 years is not in dispute. They cannot take the benefit of Jaimal Singh's case (supra) as the writ petitioners in that case had approached this Court in the year 1998 while the appellants remained fence-

sitters. Even as per Jaimal Singh's case, there was no cut-off date for the purpose of regularization of services. Much was to depend upon as to how many posts were sanctioned in a depot. All the writ petitioners of that case were not made regular w.e.f. 01.04.1987.

8. *Assuming that the appellants are similarly placed yet they lost their right as neither such claim was put up before the competent authority nor they approached any other forum within a reasonable period. In this view of the matter, the rejection of their claim by learned Single Judge on the ground of delay and laches calls for no interference by this Court.*

9. *Dismissed. ”*

[13] Reliance on the decision in Commando Constable Jaivir's case (supra) by learned counsel for the petitioner is also of no avail in the facts of the case because in said case, similarly situated Bhoop Singh had been granted relief in pursuance of order dated 12.09.2012 in CWP No.18719 of 2004 for appointment w.e.f. the date when candidates lower in merit to him were appointed whereafter Commando Constable Jaivir filed a writ petition on rejection of his representation as Bhoop Singh and he were similarly situated inasmuch as both candidates were accused in the same incident. However, it is not the case of the petitioner herein that he was involved in the same incident as the candidates who were granted the benefit of appointment and seniority on the basis of decision dated 21.07.2016 in CWP No. 5963 of 2014 in case titled as Constable Sanjay Kumar vs State of Haryana and others or pursuant to decision Annexure P/9 dated 09.08.2018 on the basis of directions in CWP No.5348 of 2018. The

petitioner and aforesaid candidates were involved in separate incidents and separate FIRs.

[14] Reference is also made to the decision of a Co-ordinate Bench of this Court in CWP No.23482 of 2016 in case titled as '*Anil Kumar versus State of Haryana and others*'. Relevant extract of the same is reproduced as under:-

*“ The claim of the petitioner is being denied by the respondents keeping in view the instructions issued by Director General of Police dated 08.02.1999 (Annexure R-4). As per these instructions, representation regarding seniority are not to be entertained after lapse of 10/12 years and even 2nd, 3rd representations against fixation of seniority or adverse ACRs are not to be entertained by the authority. While issuing these instructions, reference has been made of the order passed in **Civil Appeal Nos. 7605-7610 of 1996** by the Supreme Court in the case of **B.S Bajwa and another v/s State of Punjab and others** wherein it has been held that in service matters, the question of seniority should not be re-opened after the lapse of reasonable prescribed period because that results in disturbing the settled position, which is not justifiable. In para 6 of the instructions, it is further observed that representation against any order passed by higher authority is not to be entertained if it is more than 5 years old. In the present case, the petitioner joined way back on 03.04.2006 and after a gap of 10 years, he is seeking benefit of seniority from 2004, the date when he was medically examined and found fit. As per instructions dated*

08.02.1999(Annexure R-4), the respondents have rightly not entertained his representation regarding fixation of seniority.

Dismissed. ”

[15] In **Naresh Kumar vs. State of Haryana and others 2004 (4) RSJ 652**, writ petition filed by the petitioner therein challenging his termination after delay of nine years was dismissed by a Division Bench, by relying upon the decision of a Constitution Bench of Hon’ble the Supreme Court in **State of Madhya Pradesh and another vs. Bhailal Bhai and others-AIR 1964 Supreme Court 1006**. Relevant extract of the same is reproduced as under:-

“The special remedy provided in Article 226 is not intended to supersede completely the modes of obtaining relief by an action in a civil court or to deny defence legitimately open in such actions. It has been made clear more than once that the power to give relief under Article 226 is a discretionary power. This is specially true in the case of power to issue writs in the nature of mandamus. Among the several matters which the High Courts rightly take into consideration in the exercise of that discretion is the delay made by the aggrieved party in seeking this special remedy and what excuse there is for it.

XX XX XX

“It is not easy nor is it desirable to lay down any rule for universal application. It may however be stated as a general rule that if there has been unreasonable delay the court ought not ordinarily to lend its aid to a party by this extraordinary remedy of mandamus. ”

XX XX XX

“The provisions of the Limitation Act do not as such apply to the granting of relief under Article 226. However, the maximum period fixed by the

Legislature as the time within which the relief by a suit in a civil court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured. The Court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the court to hold that it is unreasonable. ”

[16] The decision in Bhailal Bhai's case (supra) was followed by Hon'ble the Supreme Court in **M/s Tilokchand Motichand and others vs. H.B. Munshi and another-AIR 1970, Supreme Court 989** as also by an Eleven-Judges Bench of Hon'ble the Supreme Court in **Mafatlal Industries Ltd. Etc. Vs. Union of India etc. JT 1996 (1) SC 283**, wherein it was held that the High Court should not entertain belated petitions. Likewise the Division Bench of this Court also relied upon the decision of Hon'ble the Supreme Court in **Kamini Kumar Das Choudhary vs. State of West Bengal and others, Rakesh Kumar vs State of Haryana & others AIR 1972 SC 2060**, to hold that a petition for quashing order of termination after a lapse of two years deserved to be dismissed on the ground of delay.

[17] The petitioner after being allotted Constabulary number w.e.f. 02.02.2011 filed a representation for the 1st time on 26.09.2016 which was rejected on 03.10.2016. No doubt the petitioner filed appeal and revision against said decision but the initial delay of 5 ½ years in agitating his grievance is fatal. The claim made after 5 ½ years is hit by delay and laches as also on account of the petitioner being a fence sitter in view of the decision in Ghulam Rasool Lone's case (Supra). Likewise, reliance on decision Annexure P/9 dated 09.08.2018 is also misconceived on account of

(Supra) and **M. K. Sarkar's case (Supra)** as well as Standing order No.65 of 1998. Orders, Annexure P/9 were on the basis of directions in CWP No.5348 of 2018 granting liberty to Constable Yashpal to press his representation before the competent authority, who was to hear him and pass a speaking order within a reasonable time. Direction implied consideration in accordance with law. No direction as such had been issued in the aforementioned writ petition to grant the relief prayed for de hors the law and despite the same being hit by delay and laches as well as on account of Constable Yashpal being a fence sitter. Order, Annexure P/9 passed by the DIG-cum-Commandant, 3rd IRB, Sunaria, Rohtak is contrary to well settled law that on directions by a Court to decide a representation, the authority concerned is required to take into account all aspects of the matter, including delay and laches, if any and the direction by a Court to decide a claim does not have the effect of revival of a stale and time barred claim. Order Annexure P/9, is contrary to standing order No.65 of 1998 and the claim was hit by delay and laches as also on account of Constable Yashpal having remained a fence sitter. The petitioner also cannot derive any benefit of decision dated 21.07.2016 in CWP No. 5963 of 2014 in case titled as Constable Sanjay Kumar vs State of Haryana and others on account of his being a fence sitter. In the circumstances, I am of the considered view that the claim of the petitioner is not maintainable on account of his having remained a passive bystander while other similarly situated candidates were vigilant and invoked the jurisdiction of this Court at the appropriate time. The claim is inadmissible not only on account of delay and laches in seeking redress after 5 ½ years and that too vide a representation dated 26.09.2016 after having been allotted Constabulary Number on 02.02.2011 but also on account of the petitioner being a passive fence sitter and waking up only

after other similar claimants succeeded in their claim before a Court of Law.

Writ petition is accordingly *dismissed* in view of the position noted above.

(B.S. Walia)
Judge

01.12.2021

'Amit'	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No