

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

CWP-5473-2022

Date of Decision: March 28, 2022

SUKHBIR SINGH

..... PETITIONER

Versus

STATE OF HARYANA AND OTHERS

..... RESPONDENTS

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vivek Khatri, Advocate for the petitioner.

Mr. Harish Nain, AAG, Haryana (on advance notice)

LISA GILL, J.

Petitioner, in this writ petition, seeks promotion with effect from the year 2000 instead of 26.11.2010 to the post of SS Master.

Petitioner was appointed on the post of JBT teacher on 22.11.1995. Learned counsel for the petitioner submits that as the petitioner fulfills all eligibility conditions for promotion to the post of Social Studies Master (SS Master), his case for promotion was sent for consideration vide memo dated 20.08.2000. However, the matter regarding petitioner's promotion was kept pending needlessly and was delayed on one pretext or the other whereas co-employees of the petitioner were promoted to the post of SS Master. Petitioner was finally promoted to the post of SS Master on 26.11.2010. Petitioner, it is stated, approached the respondents on numerous occasions to promote him w.e.f. the year 2000 but to no avail. Learned counsel submits that legal notice dated 05.01.2022 has also been served upon the respondents but to no avail. Therefore,

present writ petition has now been filed in March 2022 seeking promotion w.e.f. the year 2000. It is, thus, prayed that this writ petition be allowed.

I have heard learned counsel for the petitioner at length and have gone through the file with his able assistance.

It is not denied that the petitioner was promoted to the post of SS Master on 26.11.2010. Petitioner, however, claims seniority from the year 2000 on the ground that he was eligible for promotion from the said year and it is for no fault of his own that promotion was not afforded to him at the proper time. Reference has been made to memo dated 20.08.2000 vide which petitioner's case for promotion is stated to have been sent by the competent authority for consideration for promotion to the post of SS Master. Though it is stated that co-employees of the petitioner were promoted while ignoring the petitioner's seniority, no specific instance has been mentioned in the writ petition. It remains a vague and general averment.

Moreover, it is a settled position of law that unexplained delay by itself would be prejudicial and in fact fatal to the case of an employee in such matters. There is no explanation whatsoever set forth by the petitioner to explain delay of nearly 12 years in filing this petition except to say that the petitioner kept representing before the competent authority. Clearly, such an explanation is not acceptable. Hon'ble Supreme Court in **Shiba Shankar Mohapatra v. State of Orissa, (2010) 12 SCC 471** while noticing various past precedents namely **Ramchandra Shankar Deodhar v. State of Maharashtra AIR 1974 Supreme Court 259; R.S. Makashi v. I.M. Menon AIR 1982 Supreme Court 101; Malcom Lawrence Cecil D'Souza v. Union of India AIR 1975 Supreme Court 1269; P.S. Sadasivaswamy v. State of Tamil Naidu AIR 1975 Supreme Court**

2271 and B.S. Bajwa v. State of Punjab AIR 1999 Supreme Court 1510 held that a litigant should approach the Court soon after accrual of cause of complaint and that the Court would not interfere when there is no valid explanation for an inordinate delay. Further, while referring to its earlier judgment in **P.S. Sadasivaswamy's** case (supra), it is observed that a person aggrieved by an order promoting the junior over his head, should approach this Court at least within six months or at the most within a year of such promotion. It is further observed that relief is refused by the Courts in such cases on the ground of delay and latches on the principle that rights, which have accrued to others by reason of delay in filing the writ petition should not be allowed to be disturbed unless there is a reasonable explanation. An employee should be able to sit back and consider his appointment and promotion effected a long time ago to be final. It is equally well settled that a litigant cannot claim relief as a matter of right when he is guilty of delay and latches as there cannot be any encouragement of agitation of stale claims especially where rights of other parties have crystallized in the interregnum.

The Hon'ble Supreme Court in **State of Uttranchal vs. Sri Shiv Charan Singh Bhandari and others 2013 (6) SLR 629** has held that submission of repeated representations will not keep the issue alive. As mentioned in the foregoing paras, petitioner is admittedly seeking to rake up the issue after nearly twelve years. There is no explanation leave alone a reasonable explanation for this delay.

Keeping in view the facts and circumstances as above, I do not find any ground whatsoever to interfere in this writ petition.

No other argument has been addressed.

Writ petition is accordingly dismissed with no order as to costs.

March 28, 2022

rts

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No