

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

CWP-8812-2022

Date of decision : 28.04.2022

Ajay Prashar

.....Petitioner

Versus

The State of Haryana and others

....Respondents

**CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Sunil K. Panwar, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court praying for quashing of the final merit wise result which was declared on 31.03.2011 (Annexure P-1) on the ground that the marks which have been assigned to the petitioner for the ACRs have been given less. It is asserted that the petitioner was entitled to 10 marks whereas he has been granted 09 marks. The petitioner came to know about the said fact when he was impleaded as a party to CWP No.26116 of 2013 titled as '*Alka Malik Vs. State of Haryana and others*'. It is in this petition that the criteria was disclosed and thereafter the petitioner had moved a representation on 13.09.2018 (Annexure P-13) which is still pending. On this basis, petitioner has approached this Court now with the present writ petition.

We have perused the pleadings and find the present writ petition to be highly belated specially in the light of the fact that the petitioner being a Judicial Officer having slept over his rights all through

these 11 years has now woken from his slumber all of a sudden and approached this Court. Had the petitioner been so keen or aggrieved as has been sought to be projected in the present writ petition, prompt action on his part was required to be taken.

The plea with regard to his coming to know about the criteria in the year 2018 and thereafter, moving an application/representation would not be of any help so as to justifying the delay in approaching the authorities. Had the petitioner been vigilant enough he would have sought the criteria for claiming the benefit as has been sought to be projected now. Settled things cannot be permitted to be unsettled at the behest of a person who has not been careful enough with regard to his rights and claim, if any. At this belated stage, interference by way of this writ petition for setting aside the final merit list as prepared on 31.03.2011, would not be permissible.

Mere pendency of a representation and that too with effect from 13.09.2018, would also not help the cause of the petitioner as the said representation firstly, is belated and secondly, the petitioner had not been pursuing the representation with the concerned Court/authority for decision thereon. It is a settled principle of law that the belated and stale pleas cannot be allowed to be wrecked up at the instance of a person who has been not vigilant enough with regard to his own rights. Present is the case where he himself is a Judicial Officer and has not taken prompt action for redressal of grievance, if any, of his.

Reference with regard to the aspect of approaching the Court within reasonable time can be found in the various judgments of Hon'ble the Supreme Court and this Court, few of which are as follows:-

In '**K.R. Mudgal and others Vs. R.P. Singh and others, (1986) 4 SCC 531**', the Hon'ble Supreme Court highlighted that promotions should not be disturbed after an inordinate delay. Merits need not be examined when a belated challenge is made to the seniority as that would create a sense of uncertainty and insecurity amongst the employees. A person feeling aggrieved must approach the Court at the earliest. Hon'ble Supreme Court in the case of '**Union of India and others Vs. M. K. Sarkar, (2010) 2 SCC 59**', where on a direction given by the Tribunal for disposal of a belated representation and an order has been passed, it was held that the decision by the Tribunal and in compliance thereof when an order is passed it would not extend the period of limitation or erase the delay and laches. The rights which have crystallised and have attained finality over a period of time cannot be revived at belated stage pertaining to claims which have become stale.

Yet in another case i.e. in '**State of Uttar Pradesh and others Vs. Arvind Kumar Srivastava and others, (2015) 1 SCC 347**', after referring to and examining the decisions which have been given by the Hon'ble Supreme Court in various cases, where similarly situated Government employees had approached the Court for grant of the same benefit as has been granted by a Court in another case examined the issue in the context of discrimination and equal treatment under Article 14 of the Constitution of India, the principle of delay and laches and the effect thereof was taken note of and concluded that those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after a long delay such an employee cannot claim the benefit of the judgment rendered in an earlier case of a similarly situated person. They

are to be treated as fence-sitters and laches and delays as also the acquiescence, would be a valid ground to reject their claim.

Hon'ble Supreme Court in the case of '*Union of India and others Vs. Tarsem Singh (2008) 8 SCC 648*', dealing with the question of limitation and the continuous cause of action concluded that if the claim made at belated stage involves issue relating to seniority or promotion etc. affecting and involving third party rights, delay would render their claim stale and the doctrine of laches/limitation will be applicable.

These principles which have been laid down by the Hon'ble Supreme Court over a period of time has been followed by this Court consistently and, therefore, with the finalization of the seniority list as in the present case which is being sought to be upsetted on the basis of claim made after a delay of 11 years, would not be acceptable.

In view of the above, we do not find any justification or ground to interfere in the present writ petition and therefore, dismiss the same.

(AUGUSTINE GEORGE MASIH)
JUDGE

April 28th, 2022
ps-I

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No