

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 10663 of 2022 (O&M)
Date of Decision:19.05.2022

Dharamveer Singh

.....Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ram Pal Verma, Advocate
for the petitioner.

Mr. Harish Nain, AAG., Haryana.

LISA GILL, J(Oral).

Petitioner seeks a direction to the respondents to grant him the benefit of ad hoc service from 04.03.1994 to 01.10.2003 towards seniority and other benefits.

Brief facts necessary for adjudication of the case are that petitioner was appointed on 04.03.1994 as Science master. His services were regularized on 29.04.2004. Petitioner was granted ancillary benefits of regular service such as regular increments in pay scale, TA & DA allowance etc., but entitlement of seniority, it is stated was never afforded to him. Petitioner, it is submitted filed various representations seeking reckoning of adhoc service for the purpose of seniority and all other benefits, but to no avail. Hence present writ petition has been filed.

Learned counsel for the petitioner vehemently argued that persons junior to the petitioner have been promoted thereby working great prejudice to the petitioner. It is submitted that once petitioner was appointed after following proper procedure of selection and recruitment as per rules *qua* a sanctioned post, he is entitled to the benefit of Ad-hoc service towards seniority. It is submitted that it was incumbent upon the respondent-authorities to have placed the petitioner at proper place in the Seniority list and not for the petitioner to have raised his claim. As the relief claimed is stated to be recurring in nature, therefore petitioner it is submitted cannot be put to any prejudice on account of not having earlier raised an objection on this account. Learned counsel for the petitioner has relied upon judgements of this High Court in **CWP No. 17153 of 2013, decided on 07.08.2013, titled Asha Malhotra Vs. The Commissioner & Director General, Secondary Education, Haryana and others** and **CWP no. 8604 of 2007, decided on 09.09.2010, titled Dr. Surinder Kumar Mishra and others Vs. State of Haryana and another**. It is thus prayed that the present writ petition be allowed.

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

In my considered opinion there is no ground whatsoever to interfere in this writ petition for issuance of a direction to the respondents to consider the period of adhoc service rendered by the petitioner for the purpose of seniority at this stage. This is so for the reason that petitioner was admittedly appointed to the post of Science Master initially on adhoc basis in the year 1994 and his services regularized vide communication dated 29.04.2004 w.e.f., 01.10.2003. Petitioner has undeniably not raised any objection thereto till submission of various representations the latest one

being 16.09.2018, Annexure P-10. Though, it has been submitted during the course of arguments that petitioner kept approaching the authorities, but apart from the fact that there is indeed nothing on record to indicate the same, such repeated representations even if accepted to be, can be of no avail to the petitioner. It is a settled position of law that an employee is not at liberty to rake up the issue regarding promotion at a belated stage. It has been held by the Hon'ble Supreme Court in **Union of India and others Vs. Chaman Rana, 2018 AIR (Supreme Court) 1478** that a grievance related to promotion cannot be given a new lease of life at any given point of time. The Hon'ble Supreme Court in **Union of India and others Vs. Chaman Rana (supra)** has observed as under:-

“In service matters, especially with regard to promotion, there is always an urgency. The aggrieved must approach the Court at the earliest opportunity, or within a reasonable time thereafter as third party rights accrue in the meantime to those who are subsequently promoted. Such persons continue to work on the promotional post, ensconced in their belief of protection available to them in service with regard to seniority. Any belated interference with the same is bound to have adverse effect on those already promoted affecting their morale in service also. Additionally, any directions at a belated stage to consider others for promotion with retrospective effect, after considerable time is bound to have serious administrative implications apart from the financial burden on the government that would follow such orders of promotion.”

While referring to the case of **P.S.Sadasivaswamy Vs. The State of Tamil Nadu (1975) 1 SCC 152**, it was observed that a period of six months or at the utmost a year would be reasonable time to approach the Court against denial of promotion. Relevant portion thereof reads as under:-

“2..... A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six

months or at the most a year of such promotion. It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner's petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant's petition as well as the appeal."

It was further held that even mere repeated filing of representations cannot be a sufficient explanation for delay in approaching the Court for grant of relief and neither can a subsequent pronouncement by a Court enthrone a fresh lease of life or furnish a fresh cause of action to what is otherwise a dead or stale claim. Gainful reference in this regard can also be made to a Division Bench judgement of this High Court in **LPA No. 1845 of 2017, titled as State of Haryana and others Vs. Sultan Singh and others, decided on 08.01.2020** and decision of a Coordinate Bench in **Parmod Kumar and others Vs. State of Haryana and others, 2018(4) PLR 818.**

Keeping in view the facts and circumstances of the matter as discussed in the foregoing paras, I do not find any ground for interference in this writ petition.

No other argument has been addressed.

Accordingly, this writ petition is dismissed with no order as to costs.

19.05.2022

s.khan

[LISA GILL]

Judge

Whether speaking/reasoned

:

Yes/No.

Whether reportable

:

Yes/No.