

103.

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

CWP-13330-2019

Date of Decision: 08.03.2022

BIJENDER SINGH

.... Petitioner

Versus

STATE OF HARYANA AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Birinder Singh Rana, Senior Advocate, with
Mr. Nayandeep Rana, Advocate, for the petitioner.

JAISHREE THAKUR.J

1. Through the instant civil writ petition filed under Article 226/227 of the Constitution of India, the petitioner is seeking issuance of direction to the respondents to extend him the benefit of promotion order dated 12.01.1999 in view of the provisions contained in Rule 13.07 of the Punjab Police Rules, 1934.

2. Briefly stated, the petitioner was appointed as Constable on 17.08.1995 in the Haryana Police under Sports quota as he was an outstanding sports person/wrestler. After appointment in the respondent-department, he participated in various International/National Championships and won gold/silver medals. The petitioner won gold or silver medal in All India Police Games held in the year 1998 and 1999 respectively; silver medal in World Police Games Sweden in the year 1999 and Bronze medal in International Championship in Egypt in the year 2001. On account of his said

achievements, the petitioner was given the benefit of Adhoc promotion by the respondents and appointed as Head Constable on Adhoc basis vide order dated 12.01.1999 (Annexure P-2). However, said order dated 12.01.1999 was withdrawn by the respondents and a fresh order dated 04.12.2000 (Annexure P-3) was passed promoting the petitioner on the post of Head Constable (Adhoc) under own rank and pay w.e.f. 06.11.2000 passed by the then Superintendent of Police, Karnal and it was made clear that by this promotion he would not have any right to claim seniority to the said post and will be liable to reversion without any notice. The petitioner approached the respondents for appointing him on adhoc probation Inspector/Sub Inspector/ Assistant Sub Inspector in Haryana Police against the sports quota. However, the said request was not acceded to and consequently, the petitioner approached this Court by way of CWP No.18235 of 2003, which writ petition was disposed of by directing the respondents to pass a speaking order on the legal notice dated 15.03.2003 within a period of four months from the date of certified copy of said order. Accordingly, respondent No.2 passed an order dated 03.04.2004 (Annexure P-5) whereby name of the petitioner was approved for adhoc promotion to the post of ASI under own rank and pay policy of the State Government. Dissatisfied with the said order, petitioner again approached this Court by way of CWP No.10309 of 2004 for quashing/modification of order dated 03.04.2004. Vide order dated 17.07.2004, while declining the claim of the petitioner for quashing/modification of order dated 03.04.2004, this Court disposed of the petition by directing the respondents to frame a comprehensive policy for consideration

of the candidature of eligible persons for direct recruitment and/or promotion against the posts earmarked for sports persons and ensure that the candidature of all eligible persons is considered at the time of recruitment by either method. Since the said directions were not complied with, the petitioner filed contempt petition i.e. COCP No.1572 of 2004. Reply to that effect was filed whereby non-compliance of the High Court order was explained by stating that scanning of ORP policy was time consuming process and the delay was not intentional, but a procedural delay. Petitioner was promoted to the post of officiating Assistant Sub Inspector by respondent No.4 w.e.f. 25.01.2011 and is working as such with the respondents.

3. The petitioner is now seeking the benefits of order dated 12.01.1999, whereby he had been promoted as Head Constable on Adhoc basis on the basis of 'his sports achievement', which order was withdrawn and a fresh order was passed by the respondents promoting the petitioner as Head Constable (Adhoc) in his own rank and pay w.e.f 6.11.2000 and stood promoted as Head Constable on 5.11.2002 and subsequently stood promoted as Adhoc Assistant Sub Inspector under own Rank and Pay policy. Counsel would contend that petitioner cannot be deprived of his right of promotion to the post of Head Constable from the year 1999 and therefore, he seeks the benefit of promotion from the order dated 12.01.1999 for all intents and purposes.

4. It would also be pertinent to note that the petitioner has been filing several petitions in the High Court seeking promotion as SI/ASI in the

Haryana Police on the basis of being a sports person and withdrawing the same. The instant petition has been filed after an inordinate delay of 22 years. In none of the said rounds a challenge was made to the order dated 04.12.2000, withdrawing the promotion given on 12.01.1999 as Head Constable on the basis of achievements as a sports person. Therefore the petitioner cannot at this stage be permitted to seek benefits under the order dated 12.01.1999.

5. The law is well settled that a litigant has to be vigilant regarding his rights. The doctrine of 'Delay or Laches' is thus an equitable doctrine. It is based on the maxim "*Vigilantibus non dormientius aequitas subvenit*" which means equity aids the vigilant and not the ones who sleep over their rights. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. Even if there is no period prescribed for filing the writ petition under Article 226 of the Constitution of India, yet it should be filed within a reasonable time. In the present case, there is no explanation as to why the benefit of order dated 12.01.1999 as claimed now was not sought when an order dated 04.12.2000 was passed withdrawing the same. The petitioner is now trying to agitate a stale claim which cannot be permitted.

6. Consequently, the writ petition is dismissed on the grounds of delay and laches.

08.03.2022

sanjeev

Whether speaking/reasoned:

Whether Reportable:

(JAISHREE THAKUR)

JUDGE

Yes/No

Yes/No