

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

**CWP-10658-2015
Decided on : 05.12.2022**

Balwinder Singh

.....Petitioner

Versus

Union of India & others

.....Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr.Balwinder Singh, Advocate, for
Mr.Rohit Sharma, Advocate for the petitioner.

Mr.Ashish Rawal, Advocate, for respondents No.1 to 3 & 6.

G.S. Sandhawalia, J.

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India, is to the order dated 23.12.2014 (Annexure P-2) whereby the Central Administrative Tribunal (for short, the 'Tribunal') dismissed the Original Application bearing OA No.060/01141/2014 filed by the petitioner on the ground of delay and laches.

The claim of the petitioner was that he had not been considered against roster point no.7 in the year 2007. The reasoning given by the Tribunal was that respondent No.3 before it had been promoted in 2007 and it was, thus, observed that the OA was filed in the year 2014 and was hit by Section 21 of the Administrative Tribunals Act, 1985. Reliance was placed upon various judgments including **Bhup Singh Vs. Union of India & others, 1992 AIR SC 1414, Union of India Vs. Harnam Singh, 1993 (3) SCC 162, Union of India & others Vs. M.K.Sarkar, 2010 (2) SCC 58 and Union of India & others Vs. A.Duairaj JT 2011 (3) SC 254**. It was noticed that the OA had been filed almost after 7 years and no reason was given.

The same was apparently done without calling for response from the other side and on the basis of the pleadings filed in the OA.

In our considered opinion the Tribunal fell in error as there were specific pleadings that the promotion of respondent No.3 who belonged to General Category had been done on the roster point no.7 without informing him and without the knowledge of the applicant and by ignoring him in the said year. It has further been averred that the information had been supplied under the RTI on 26.04.2014 as per Annexure A-1 and it was in such circumstances, claim had been made on 24.07.2014. Legal notice had accordingly been served on the ground that as per the information supplied, the said respondent had been promoted against the roster point for Scheduled Caste candidates for which he was liable to be considered. It is, thus, apparent that the rejection on 21.10.2014 led to the filing of the OA. In such circumstances, we are of the considered opinion that it was a disputed question of fact as to when the information was supplied and when the cause of action arose. In the absence of the earlier information supplied to the petitioner, the OA could not have been dismissed only on the ground of delay and laches without calling for the response.

Accordingly, keeping in view the above, we are of the considered opinion that it would be appropriate that the Tribunal decides the issue afresh after calling for the response from the respondents and then takes a call, both on the issue of delay and on merits, keeping in view the above facts and circumstances.

Resultantly, the present writ petition is allowed, the order dated 23.12.2014 (Annexure P-2) stands quashed and the matter is remanded to the Tribunal. Parties to put in appearance before the said forum on 11.01.2023.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

05.12.2022
sailesh

Whether speaking/reasoned :
Whether Reportable :

Yes/No
Yes/No