

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(220)

CWP No. 16965 of 2017

Date of Decision : 30.05.2022

Hawa Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. J.S. Hooda, Advocate for the petitioner.

Mr. Narender Singh Behgal, A.A.G., Haryana.

Harsimran Singh Sethi J. (Oral)

In the present petition, the prayer is for quashing of the order dated 08.04.2017 (Annexure P-16) by which, the prayer of the petitioner for the grant of promotion to the post of Assistant Superintendent (Treasury) has been declined.

Learned counsel for the petitioner argues that petitioner was entitled for promotion against a reserved vacancy in the Cadre of Assistant Superintendent (Treasury), which vacancy was not given to the petitioner while he was in service and, therefore, the petitioner is entitled for promotion to the post of Assistant Superintendent (Treasury) from a date prior to 13.10.2011, when the said promotion was given to him.

It is a conceded position that petitioner only started agitating

his claim after his retirement. The present petition has been filed in the year

2017 much after his retirement. Though, the petitioner had filed a petition being CWP No. 22530 of 2012, which was disposed of by this Court on 15.11.2012 with a direction to respondent No. 2 to pass an appropriate speaking order.

The question which arise is whether, the petitioner can be allowed to agitate a service dispute which arose when the petitioner was in service, especially, when the employees, who are likely to be affected by the decision of this petition, are not party to the present litigation.

It is a settled principle of law that an employee has to be vigilant about his right and has to agitate his/her grievances within a reasonable time of the cause of action failing which, the prayer seeking the relief is liable to be rejected on the ground of delay or laches itself.

It is a conceded position that petitioner is asking for a promotion with effect from the year 2007. Petitioner never agitated the said claim in the year 2007. Further, the petitioner was promoted to the post of Assistant Superintendent (Treasury) in the year 2011 even at that time, no grievance was raised. After the retirement, the petitioner started agitating his claim that he was entitled for promotion as Assistant Superintendent (Treasury) on the basis of a roster point, which became available in the year 2007. Even while agitating the said claim, the employee, who was given the said roster point, has not been impleaded as a party. Even in the present petition, no employees, who are likely to be affected by the outcome of the present petition are party to the litigation.

A Division Bench of this Court while passing order in CWP No. 10856 of 2016 titled as ***Bhal Singh Vs. State of Haryana and others***,

decided on 27.05.2016 has held that the stale claim raised at a belated stage is liable to be dismissed on the ground of delay and laches. the relevant paragraph 9 of the said judgment is as under :-

“9. As in the case in hand, the stale claim is sought to be raised by the petitioner merely because the Act has been enacted by the State, the writ petition deserves to be dismissed on account of delay and laches only.”

A Co-ordinate Bench of this Court in CWP No. 28508 of 2013 titled as ***Suraj Mal Vs. The State of Haryana and others***, decided on 29.09.2014 has held that claim of ACP Scale after 9 years of the retirement and that too without explaining any delay, is liable to be dismissed on the ground of delay itself. The relevant paragraph 9 of the said judgment is as under :-

“9. In view of the above authoritative enunciation of law by Hon'ble the Supreme Court and this Court, the present writ petition filed by the petitioner nearly after 9 years of his retirement to claim certain benefits, which may be due to him while in service, certainly deserves to be dismissed on account of delay and laches as there is no satisfactory explanation available for delay.”

Again a Co-ordinate Bench of this Court while passing CWP No. 22503 of 2017 titled as ***Manjit Kaur Vs. Punjab State Power Corporation Ltd. and others***, decided on 03.10.2017, held that for getting a relief, an employee is required to satisfactorily explain the delay in approaching the Court. In case of failure, the petition is liable to be dismissed on the ground of delay. The relevant paragraphs 15 and 16 of the said judgment are as under :-

*“15. The above view of the Apex Court was followed in a recent judgment rendered by this Court in **Suraj Mal V. State of Haryana reported as 2015 (1) SCT 31**, wherein it has been held as under :-*

“9. In view of the above authoritative enunciation of law by Hon'ble the Supreme Court and this Court, the present writ petition filed by the petitioner nearly after 9 years of his retirement to claim certain benefits, which may be due to him while in service, certainly deserves to be dismissed on account of delay and laches as there is no satisfactory explanation available for delay.”

16. The benefits of a decision rendered in the case of similarly placed persons cannot straightway be given to a person, who himself approaches the Court belatedly. For getting relief from the Court, he is required to satisfactorily explain the delay on his part in approaching the Court.”

In the present case, the delay has not been explained at all as to why the petitioner did not agitate his claim when, the roster point, according to which, the petitioner was entitled for promotion in the year 2007, was filled up in the year 2007. Further, nothing has come on record as to why the petitioner remained quite even after he was granted promotion to the post of Assistant Superintendent (Treasury) in the year 2011.

Not only this, the petitioner approached this Court in the year 2013 after retirement. The order impugned was passed in the year 2016 and the present petition was filed in the year 2017. No service claim especially the promotion with retrospective effect, can be taken into account after the retirement and that too by not impleading the employees, who are likely to be affected by the outcome.

Keeping in view the above, no ground is made out to interfere in the present petition in respect of the impugned order dated 08.04.2017 (Annexure P-16).

Dismissed.

May 30, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No