

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

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LPA No.814 of 2022

Date of Decision: September 20th, 2022

Ramesh Kashyap

...Appellant

Versus

State of Haryana and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Munish Mittal, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment dated 27.07.2022 passed by the learned Single Judge vide writ petition preferred by the appellant challenging the order dated 18.09.2001 (Annexure P-10), whereby his claim for grant of pension as an Ex-MLA was declined on the ground that there is inordinate delay and laches in approaching the Court.

2. Learned counsel for the appellant has contended that pension is recurring loss and, therefore, delay cannot be a ground for denying the approach to the Court for redressal of the grievance. He contends that at the most the appellant could have been denied the period of pension for which he had not approached the Court for redressal of the grievance. Assertion has thus been made that the impugned order cannot sustain.

3. When confronted with the order dated 18.09.2001 (Annexure P-10) as to how the appellant would be entitled to the benefit of pension, especially in the light of the fact that the election of the appellant was declared void by the High Court vide order dated 21.04.1999, reference has been made by the counsel for the appellant to the interim order passed by the Hon'ble the Supreme Court in the appeal which was preferred by the appellant i.e. order dated 14.05.1999 to contend that the appellant was

permitted to perform his duties as MLA and, therefore, would be entitled to

the benefit of being an Ex-MLA and thus, the pension. He, however, could not dispute the fact that the Legislative Assembly was dissolved on 14.12.1999 as also the fact that the Hon'ble Supreme Court of India had proceeded to dismiss his appeal on 18.01.2000.

4. The above raised contentions of the counsel for the appellant cannot be accepted in the light of the fact that the order dated 14.05.1999 as passed by the Hon'ble Supreme Court in the appeal, which was preferred by the appellant, which reads as follows:-

“We are inclined to grant stay of the operation of the order of the High Court declaring the election of the appellant void and also declaring the first respondent as elected subject to the following conditions, namely that the appellant is permitted to attend the Legislative Assembly Haryana and sign in the register but without Participating in the proceedings of voting and without Drawing any remuneration.”

This did not entitle him for either voting or drawing any remuneration for the period during the pendency of the appeal.

5. The final culmination was the dismissal of the appeal. The result thereof was that his election, on the basis of which he is claiming himself to be an Ex-MLA was held to be *void ab initio*. Where the election itself has been nullified, there is no question of the appellant being entitled to claim himself to be an Ex-MLA. The claim as has been projected by the appellant before this Court is unsustainable and, therefore, there is no question of he being an Ex-MLA entitling him to the benefit of any pension. The rejection of the claim of the appellant vide order dated 18.09.2001 (Annexure P-10) thus cannot be said to be illegal or not in accordance with

law.

6. It may be added here that subsequently another representation was submitted by the appellant for restoring him the status of an Ex-MLA, which plea was also rejected by the competent authority vide order dated 27.06.2016 (Annexure P-11), which order has not been challenged by the appellant in the writ petition.

7. In view of the above, finding no merit in the present appeal, we dismiss the same.

(AUGUSTINE GEORGE MASIH)
JUDGE

September 20th, 2022
Puneet

(ALOK JAIN)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No