

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

224

LPA-1319-2018

Date of decision : 18.04.2022

Mahindero

....Appellant

V/s

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Shvetanshu Goel, Advocate for the appellant.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

Mr. Avinash Kumar, Advocate for
Mr. Kuldip Tiwari, Advocate for respondent No.4.

G.S. SANDHAWALIA, J. (ORAL)

Present appeal arises out of the judgment dated 25.05.2018, passed by the learned Single Judge in CWP-13437-2018, wherein the petition has been dismissed in limine on the ground of delay and laches and also on the principles of Order 2 Rule 2, Code of Civil Procedure, 1908.

The learned Single Judge noticed that the claim of regularization of the services of the appellant's deceased husband from 03.01.1997 or in the alternative from 03.03.2004, had been agitated in the year 2018. The husband of the appellant had retired on 31.12.2013; died on 07.04.2015 and the writ petition was filed after 4½ years from the date of his retirement and 3 years after his death and thus, there was gross unexplained delay. Similarly, it was noticed that on an earlier occasion, appellant's husband had filed a petition in the year 2004, where he had not claimed regularization and other similarly situated persons with whom parity was sought had approached the Court in the year 2010 and on that account

The sole argument which has been raised by counsel for the appellant is that in similar circumstances, the same relief was granted in CWP-9080-2010 titled as *Mohinder Kumar and others vs. State of Haryana and others*, decided on 04.05.2016, and, therefore, the appellant should also be granted the said benefit.

A perusal of the order which has been relied upon by counsel for the appellant and reproduced in the grounds of appeal would go on to show that the challenge therein was to order dated 02.04.2010 by the writ petitioners therein who were also seeking confirmation and regularization from the year 1997. However, in the present case as noticed above, the appellant's husband was alive in the year 2010 and had not joined that set of persons with whom parity was sought. He superannuated on 31.12.2013, without agitating his grievance of regularization of his service. Unfortunately, husband of the appellant expired on 07.04.2015 and as noticed above, the writ petition was filed after 3 years of his death. In such circumstances, the cause of action accrued much earlier to the deceased employee, who had never chosen to agitate the same during his service period or during his life time.

Even reliance upon the appointment letter dated 31.03.2003 (Annexure P-2), showing that the husband of the appellant was appointed on ad hoc basis w.e.f. 01.04.2003 and was on probation for a period of one year, would not also take the counsel a long way since it has been noticed that during his service tenure, he had made no efforts to agitate for his grievance. The cause of action was limited to him rather than the appellant, which is now sought to be agitated for after his death.

In view of above, we are of the considered opinion that the reasoning

which has been recorded for dismissing the writ petition in limine, cannot be held

to be suffering from any illegality or irregularity, which would warrant interference in Letters Patent Appeal.

Accordingly, the Letters Patent Appeal is dismissed.

(G.S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

April 18, 2022
Ajay

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