

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.4593 of 2017(O&M)

Reserved on:11.10.2022

Date of Decision.20.10.2022.

Devender Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rajesh Goyal, Advocate
for the petitioner.

Ms. Kirti Singh, DAG, Haryana.

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JAISHREE THAKUR J.

1. The present writ petition has been filed under Article 226/227 of the Constitution of India praying for issuance a writ in the nature of certiorari for quashing order dated 15.01.2016 (P-6) vide which the appeal filed by the petitioner for bringing his name on promotion list B-1 under 10% quota in the year 2002-2003, on the basis of showing exemplary courage, has been dismissed, with a further prayer to issue a writ in the nature of mandamus, directing the respondents to include the name of the petitioner in promotion list B-1 under 10% quota in the year 2002-2003 in terms of Rule 13.7 of the Punjab Police Rules, 1934.

2. In brief, the facts are that on 01.10.1989, the petitioner joined the Police Department of Haryana as Constable. In the year 2001, the petitioner had shown exceptional bravery while on official duty, on the basis of which a recommendation was made by the Superintendent of Police to the Inspector General of Police to give the petitioner ad hoc promotion as Head Constable.

The Superintendent of Police also passed a formal order dated 01.03.2001 promoting the petitioner on purely temporary basis. Vide notification dated 28.06.2001, an amendment was made in Rule 13.7 whereby 10% quota was provided for promotion to list B of those Constables, who showed outstanding performance in job/obtaining Gold or Silver Medal in All India Police/Duty Meet/National Games or exceptional display of bravery during the course of performance of official duty. Since the petitioner had shown exceptional display of bravery during the course of performance of his official duties, he had made various representations to the respondent-department for inclusion of his name in the promotion list B-1 under the 10% quota from the year 2003 to 2012, but he did not receive any response. Ultimately, the petitioner preferred an appeal (P-5) before respondent No.3, which stood dismissed by the Director General of Police, Haryana vide order dated 15.1.2016 on the ground that the appeal was time barred as per standing order No.65/1996 as issued vide letter dated 08.02.1999. Aggrieved against the said order, the petitioner approached this Court vide instant writ petition.

3. Learned counsel appearing for the petitioner would submit that the petitioner had shown exemplary display of bravery by arresting the accused of jail break and also saved life of one Poonam Devi and her husband, by saving them from drowning in the canal. The said acts of bravery were also recognized by the authorities as commendation certificates had been issued and ad hoc promotion was given to the petitioner to the post of Head Constable. However, the petitioner had been deprived from the benefit of Rule 13.7 of the Punjab Police Rules, 1934 by not including his name in promotion list B-1 for the year 2002-2003 under 10% quota on the basis of exceptional display of bravery during the course of performance of his official

duty. The representations made by the petitioner from the year 2003 till 2012 also went unheard and the appeal preferred before respondent No.3 also stood dismissed on the ground of delay. It is argued that the petitioner had made timely representations before the respondent-department, however, no action was taken thereon. Therefore, there was no delay on the part of the petitioner in approaching the authorities concerned. The Director General of Police, Haryana had wrongly held that the appeal preferred by the petitioner is time barred.

4. Per contra, learned counsel appearing on behalf of the respondent-State would submit that though the petitioner had shown exceptional act of bravery while on duty and his name was required to be recommended for promotion list B-1 under 10% quota as per Rule 13.7 of the Punjab Police Rules for the year 2002-2003 but at this belated stage, name of the petitioner cannot be recommended for promotion list B-1 for the year 2002-2003. The petitioner preferred appeals before the Senior Superintendent of Police whereas it should have been filed before the Director General of Police. The petitioner approached the Inspector General of Police by way of appeal after five years from the date when the cause of action arose and therefore, it was rightly dismissed being time barred.

5. I have heard learned counsel for the parties and have gone through the pleadings. It is admitted fact that the petitioner kept ventilating his grievance by way of representations before the concerned authority from the year 2003 to 2016 that he is entitled to be brought on promotion list B-1 under 10% quota as provided under Rule 13.7 of the Punjab Police Rules for the year 2002-2003, but did not receive any response thereon. Ultimately, when the

petitioner preferred an appeal before the Appellate Authority, the same was dismissed as barred by limitation.

6. Be that as it may, the petitioner is seeking for inclusion of his name in the promotion list B-1 for the year 2002-2003 by filing a writ petition in the year 2017 i.e. after 14 years. The reason for delay in filing of the writ petition is attributed to the fact that no response had been received to the representations filed by the petitioner. The argument that the petitioner was making representations from the year 2003 to 2016 and ultimately when the appeal was dismissed, a writ petition was filed, is wholly misconceived, as mere filing of representations does not arrest the period of limitation. The Hon'ble Supreme Court in the judgment rendered in **Surjit Singh Sahni Vs. State of U.P. and others** passed in SLP (C) No.3008 of 2022 decided on 28.02.2022 has held that mere representation does not extend the period of limitation and the aggrieved person has to approach the Court expeditiously and within reasonable time.

7. Mere awareness of right is not enough, but one has to be vigilant while exercising or using the same. The legal process only benefits those, who have been careful enough with their rights, instead of being ignorant. In a catena of judgments, it has been held that law helps the vigilant and not those who sleep over their rights. Anyone who sleeps over his rights is bound to suffer. The petitioner approached this Court in the year 2017 for the cause of action which arose in the year 2002-2003 and therefore, deserves to be denied the relief as sought in the instant writ petition. Furthermore, it is also not a recurring cause of action/continuous nature, which is not barred by limitation, but was one time cause of action. The petitioner could be included in the promotion list B-1 at that very point in time and not at this belated stage.

8. Keeping in view the aforesaid facts and circumstances, the relief sought by the petitioner has become stale and consequently, the instant petition is dismissed on the ground of delay and laches.

(JAISHREE THAKUR)
JUDGE

October 20, 2022

Pankaj*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No