

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

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CWP-1132-2023

Date of decision: 20.01.2023

SUKHJEET SINGH

..Petitioner

Versus

STATE OF PUNJAB AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kanav Bansal, Advocate
for the petitioner.

Mr. D.K. Singal, Addl. A.G., Punjab.

ANIL KSHETARPAL, J(Oral)

1. The petitioner has not disclosed the date of acquisition of land in the writ petition, however, on the request of the Court, the learned counsel representing the petitioner submits that the land was acquired in October, 2010. The petitioner prays for issuance of a writ in the nature of certiorari to quash the order dated 25.02.2022 by which the claim of the petitioner for giving him a Government job has been rejected. The petitioner stakes his claim on a communication issued by the Secretary, Power, on 11.11.2011, the operative part, whereof, reads as under:-

“Regarding the above mentioned subject, the following decision has been taken by the Govt.

1. That one family member will be given the Govt. job whose land has been acquired.

2. For Govt. job eligibility will be 10+2.

3. The Govt. job will be given as per the qualification in group C and D.

4. That the owner whose land has been acquired his one family member will be given the job.

5. That if any child of the family is studying, then as per the terms of giving compassionate appointment the decision to give Govt. job on the completion of study of child should be given an application of the family.

6. That these posts are taken out of the PPSC or SSSB Board.

7. The applications will be given to the D.C. Mansa.

8. No other condition will be applicable.”

2. The petitioner claims that the aforesaid policy was modified on 28.02.2014 to include the family members of the oustee.

3. The relevant facts, in brief, are required to be noticed, which are as follows:-

4. The petitioner claims that 319 marlas of land of his grand-father and 51 kanals and 92 marlas which was in the possession of the petitioner was acquired. He does not claim to be the owner of land measuring 51.92 marlas.

5. This Bench has heard the learned counsel representing the petitioner at length and with his able assistance perused the paperbook.

6. The learned counsel representing the petitioner submits that the petitioner's claim has been rejected on the ground that the petitioner or his predecessor did not submit the requisite application before 31.03.2013. He submits that such cut off date has already been declared illegal in a judgment passed in **CWP-1861-2016, titled as “Randhir Singh Vs. State of Punjab and others”, decided on 09.01.2020** and in **CWP-8116-2017, titled as “Baljeet Singh Vs. State of Punjab and others”, decided on 04.12.2020**.

7. On perusal of the impugned order, it is evident that a public notice was issued by the Office of Deputy Commissioner inviting applications for seeking appointment. Neither the petitioner nor his predecessor submitted the application before the cut off date i.e. 31.03.2013. On perusal of the order, it is apparent that the petitioner's grand-father submitted the application on 19.09.2016, for the first time.

8. Even as per the case of the petitioner, 13 years have elapsed since their land was acquired. The purpose of such policy is to immediately provide employment to the oustees who stand deprived of their source of livelihood. There is a substantial change in the scenario after a period of 13 years has elapsed. The petitioner cannot claim right to the employment till eternity while ignoring the public notice. No doubt, the cut off date has been held to be unsustainable, however, the writ petition filed by the petitioner suffers from unexplained delay and latches.

9. In **Surjit Singh Sahni Vs. State of U.P. and others, Special Leave Petition (Civil) No.3008 of 2022**, the Supreme Court in the case of oustee claiming employment on the basis of Clause 12 of the sale deed executed to transfer the land, held as under:-

“4. At the outset, it is required to be noted that by way of writ petition under Article 226 of the Constitution of India as such the petitioner prayed for a specific performance of Clause 12 of the Sale Deed dated 19.09.2001. For the first time, the petitioner made a representation for allotment of 10% plot as per Clause 12 of the Sale Deed dated 19.09.2001 in the year 2010, i.e., after a period of 10 years from the date of execution of the Sale Deed. Therefore, as such if the suit would have been filed for specific performance, the same would have been barred by limitation. Despite the above, the petitioner filed a writ petition before the High Court and as observed hereinabove prayed for specific performance of Clause 12 of the Sale Deed dated 19.09.2001 being Writ Petition No.37443 of 2011, which was also filed after a period of 11 years from the date of execution of the Sale Deed. Therefore, as such when the earlier writ petition was filed in the year 2011 which was also barred by delay and latches, the High Court ought not to have entertained the same. Instead, the High Court entertained the said writ petition and directed the NOIDA to decide the representation of the petitioner, which as such was made after a period of 10 years, expeditiously and it gave the fresh blood to the litigation, which otherwise was barred by delay and latches. The High Court by passing the order dated 07.04.2017 as such did not realise and/or appreciated that the writ petition itself was required to be

dismissed on the ground of delay and latches as the same was filed after a period of 11 years from the date of execution of the Sale Deed under which the right was claimed. We have come across number of such orders passed by the High Courts directing the authorities to decide the representation though the representations are made belatedly and thereafter when a decision is taken on such representation, thereafter it can be said on behalf of the petitioner that the fresh cause of action has arisen on rejection of the representation. Therefore, when such orders are passed by the High Courts either relegating the petitioner to make a representation and/or directing the appropriate authority to decide the representation, the High Courts have to consider whether the writ petition is filed belatedly and/or the same is barred by latches and/or not, so that in future the person who has approached belatedly may not contend that the fresh cause of action has arisen on rejection of the representation. Even in a case where earlier representation is rejected, the High Court shall decide the matter on merits.

5. As observed by this Court in catena of decisions, mere representation does not extend the period of limitation and the aggrieved person has to approach the Court expeditiously and within reasonable time. If it is found that the writ petitioner is guilty of delay and latches, the High Court should dismiss it at the threshold and ought not to dispose of the writ petition by relegating the writ petitioner to file a representation and/or directing the authority to decide the representation, once it is found that the original writ petitioner is guilty of delay and latches. Such order shall not give an opportunity to the petitioner to thereafter contend that rejection of the representation subsequently has given a fresh cause of action.

6. Even otherwise on merits also, we are in complete agreement with the view taken by the High Court. The High Court has rightly refused to grant any relief which as such was in the form of specific performance of the contract. No writ under Article 226 of the Constitution of India shall be maintainable and/or entertainable for specific performance of the contract and that too after a period of 10 years by which time even the suit for specific performance would have been barred by limitation.”

10. The learned counsel representing the petitioner has failed to draw the attention of the Court to any steps taken by the petitioner or his

predecessor after submitting the application on 19.09.2016 till the filing of the previous petition filed by the petitioner on 02.12.2021.

11. In such circumstances, this Court does not find it appropriate to exercise its extra ordinary jurisdiction.

12. Dismissed.

13. All the pending miscellaneous applications, if any, are also disposed of.

January 20th, 2023

(ANIL KSHETARPAL)
JUDGE

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