

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

LPA No.340 of 2023 (O&M)  
Date of Decision: 21.04.2023

Sushma Rani

.....Appellant

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE  
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE

Present : Dr. GPS Randhawa, Advocate for the appellant.

**ARUN PALLI, J.**

This is an *intra Court* appeal, under Clause X of the Letters Patent, against an order and judgment dated 18.08.2022, vide which the writ petition preferred by the appellant has since been dismissed, for it suffered from **delay and laches**.

The appellant before the writ Court had prayed for the following substantive relief:-

“Civil Writ Petition under Articles 226/227 of the Constitution of India with a prayer that this Hon’ble Court may be pleased to issue a writ in the nature of Mandamus or any other appropriate writ, order or direction which this Hon’ble Court may deem fit under the circumstances of the case directing the respondents to correct and re-fix the seniority of the petitioners and to return back the illegal amount recovered from the petitioners for the period 04-1994 to 04-1998 with interest and to grant them the pay and perks and rank as admissible in accordance to their seniority and to correct and place the name of petitioners at appropriate place in the seniority.”

The facts that are required to be noticed are limited.

Pursuant to an advertisement, issued by the respondents, the appellants competed for selection to the post of Computer Operators in the scale of Constable. Even though, their names were recommended for appointment but as no vacancy existed in the rank of Constable in the district, they were appointed as Special Police Officers on 02.12.1993. Later, pursuant to the sanction, accorded by the Director General of Police, Punjab, they were allotted constabulary number against vacant posts of Constable on 12.04.1994. In the year 1996, SPO Lal Mohd. and others filed a Writ Petition (**CWP No.7451 of 1996**) as their claim for appointment as Constable was ignored, whereas their juniors were assigned the constabulary numbers. The said petition, along with a bunch of several other cases, were disposed of by this Court on 12.12.1996, with a direction to the authorities to consider their claims for absorption as Constable from the date persons junior to them were appointed. In compliance to the said order, the Central Recruitment Board, considered the candidature of all the SPOs working in the State. And, of the 16,000 SPOs, 4647 SPOs were found suitable. Thus, those who passed the suitability test were allotted constabulary numbers in the year 1997. And, in terms of the order dated 12.12.1996 (ibid), they were also granted the benefit of pay fixation (notional) at par with their juniors. For, owing to unavailability of vacant posts of Constable, it was not viable to allot constabulary numbers to all 4647 suitable SPOs, the department issued instructions dated 28.08.1997 (R-4). Per which all those SPOs who were appointed up to 31.12.1993

(modified to 31.10.1993) were to be adjusted as Constables and those appointed on or after the said date and were issued constabulary numbers (out of turn) were to be reverted to their original rank of SPOs. As a result, the appellant and others, who were appointed as SPOs after 31.10.1993 and were absorbed as Constables were reverted to the rank of SPOs in the year 1997. Though, subsequently, vide letter dated 08.04.1998, issued by the Director General of Police, Punjab, the appellant too was absorbed as Constable w.e.f. 08.04.1998. It was in this backdrop, the appellant had approached this Court, vide **CWP No.15761 of 2016**, with a prayer for re-fixation of her seniority and refund of amount recovered from her, which as indicated above, was dismissed, for it suffered from **delay and laches**.

Learned counsel for the appellant has merely reiterated the submissions that were advanced before the learned Single Judge: the appellant for no fault of her was reverted to the rank of SPO in 1997. Her seniority was downgraded by taking her to be in service as Constable from April 1998 rather than December 1993. Likewise, the recoveries caused from her were wholly unjustified, and thus, she was entitled to refund.

We have heard learned counsel for the appellant and perused the records.

*Ex facie*, as concluded by the learned Single Judge, the petition filed by the appellant suffered from gross, inordinate and unexplained delay of 18 years. Concededly, the appellant was appointed as SPO on 02.12.1993 and absorbed as Constable w.e.f. 12.04.1994. As indicated earlier, it was owing to the exercise carried out pursuant to the order dated

12.12.1996 (ibid), passed by this Court, and the instructions dated 28.08.1997 (R-4), she was reverted to the rank of SPO in the year 1997. Indisputably, she never assailed/questioned her reversion. Thus, the order passed in this regard attained finality. That being so, claim for re-fixation of seniority w.e.f. 12.04.1994 and even for refund as regards the recoveries caused as a consequence of her reversion was/is misconceived. Concededly, as per her seniority and suitability, she was absorbed as Constable w.e.f. 08.04.1998. As observed by the learned Single Judge, the appellant accepted the date of her absorption as Constable and continued in service for 18 years. And, presumably, during this period, on the basis of the assigned seniority, she drew all admissible benefits such as increments and promotion etc..

It would be apposite, at this stage, to refer to the decision of the Supreme Court in **Shiba Shankar Mohapatra & Ors. Versus State of Orissa & Ors. 2010(12)SCC 471**, wherein it has been observed as follows:-

**“16. The question of entertaining the petition disputing the long standing seniority filed at a belated stage is no more *res integra*. A Constitution Bench of this Court, in *Ramchandra Shanker Deodhar & Ors. v. State of Maharashtra & Ors. AIR 1974 Supreme Court 259*, considered the effect of delay in challenging the promotion and seniority list and held that any claim for seniority at a belated stage should be rejected inasmuch as it seeks to disturb the vested rights of other persons regarding seniority, rank and promotion which have accrued to them during the intervening period. A party should approach the Court just after accrual of the cause of complaint. While deciding the said case, this Court placed**

reliance upon its earlier judgments, particularly in *Tilokchand Motichand v. H.B. Munshi*, AIR 1970 Supreme Court 898, wherein it has been observed that the principle, on which the Court proceeds in refusing relief to the petitioner on the ground of laches or delay, is that the rights, which have accrued to others by reason of delay in filing the writ petition should not be allowed to be disturbed unless there is a reasonable explanation for delay. The Court further observed as under:-

*“a party claiming fundamental rights must move the Court before others’ rights come out into existence. The action of the Courts cannot harm innocent parties if their rights emerge by reason of delay on the part of person moving the court.”*

Thus, in the given circumstances, the only and the inevitable conclusion that could be reached by the learned Single Judge was: to dismiss the petition on the ground of **delay and laches**.

In the wake of the position, as sketched out above, we are dissuaded to interfere with the impugned order and judgment. The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)  
CHIEF JUSTICE

(ARUN PALLI)  
JUDGE

21.04.2023  
Manoj Bhutani

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |