

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

LPA-275-2022(O&M)

Date of decision: 19.04.2023

Dinesh Kumar

... Appellant

Versus

State of Haryana and others

... Respondents

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

Present: Mr. R.N. Lohan, Advocate,
for the appellant.

ARUN PALLI, J.

1. This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 25.10.2021, vide which the writ petition preferred by the appellant was dismissed, for it suffered from **delay and laches**.

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

“CWP under articles 226/227 of the Constitution of India praying for a writ, order or direction especially in the nature of mandamus directing the respondents to regular to the petitioner from the date 01.03.1997 as others have been regular from the above said date as there is the policy of state of Haryana. Who has completed 2 years service. They have been promoted. And other benefit also be granted to the petitioner. And a writ certiorari to set aside the order dated 07.11.2007 passed by the General Manager (Annexure

P-3).”

3. Learned counsel for the appellant submits that appellant was appointed as Conductor on 16.12.1993, on contractual basis. However, his services were brought to an end on 19.09.1999. Being aggrieved, he raised an industrial dispute. The Labour Court, vide award dated 10.04.2006, having found the termination to be illegal, ordered his reinstatement. As a result, he re-joined on 04.01.2007. But, he submits, as in the meanwhile, some of the Drivers, who were appointed subsequent to the appellant, had already been regularized, vide order dated 07.11.2007, the authorities also regularized the services of the appellant w.e.f. 14.02.2000. It is urged that a person (Ramesh Kumar) junior to the appellant had approached this Court vide CWP-16027-2005, and during the pendency of the said petition, the order dated 21.01.2003, whereby his services were regularized w.e.f. 14.02.2000, was withdrawn by the authorities. And consequently, he was regularized w.e.f. 11.03.1997. Further, in reference to the order dated 29.07.2009 (P-4), passed by the Transport Commissioner, Haryana, it is submitted that on the basis of the order dated 11.09.2006 (P-1), services of many such Conductors were regularized w.e.f. 11.03.1997. Therefore, he asserts that order dated 07.11.2007 be set aside, and the authorities be directed to regularize the services of the appellant also w.e.f. 11.03.1997.

4. We have heard learned counsel for the appellant and perused the record.

5. The appellant was reinstated in service, pursuant to the award dated 10.04.2006, rendered by the Labour Court. As indicated earlier, vide order dated 07.11.2007, the authorities regularized his services w.e.f.

3950EB 80-4590. And his seniority was fixed. Concededly, the appellant accepted the said order and continued to serve for 14 years prior to filing a petition before this Court assailing the order dated 07.11.2007, and sought regularization of his services w.e.f. 01.03.1997. During this period, as can be safely presumed, on the basis of the assigned seniority he drew all admissible benefits such as promotion, increments etc. Thus, needless to assert that cause of action, if any, accrued to the appellant on 07.11.2007. *Ex facie*, the petition filed by the appellant suffered from gross, inordinate and unexplained delay. Even otherwise, nothing substantive or conclusive was placed on record to show that Ramesh Kumar, whose petition was disposed of by this Court vide order dated 11.09.2006 (**ibid**), as also the persons named in the order dated 29.07.2009 (**ibid**), were junior to the appellant. The said orders, at any rate, would not enure to the advantage of the appellant, for, they were passed in the year 2006 and 2009. Whereas, the appellant filed a petition before this Court on 30.04.2021. Even if, it is assumed that there was some substance in his grievance, consideration of his claim, at this stage, would entail serious administrative complications/repercussions. The repeated representations, which the appellant alleged to have made to the authorities as regards his grievances, would also not advance his case a bit, for the position of law is settled that representations do not make for an adequate explanation for delay in approaching the Court [***Shiv Dass vs. Union of India and Ors., 2007(9) SCC 274***].

6. In ***State of Tamil Nadu v. Seshachalam, 2007(10) SCC 137***, the Supreme Court has held that filing representations alone does not save the period of limitation:

“11. Some of the respondents might have filed

representations but filing of representations alone would not save the period of limitation. Delay or latches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or latches on the part of a Government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant...”

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

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

19.04.2023
Rajan

Whether speaking / reasoned: YES/NO
Whether Reportable: YES/NO