

CWP-7718-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(141)

CWP-7718-2023
DATE OF DECISION:- 17.04.2023

KAMLA DEVI

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Anil Mor, Advocate for
Mr. Rajat Mor, Advocate for the petitioner.

SUVIR SEHGAL, J. (ORAL)

1. By way of present petition, petitioner has approached this Court *inter alia* for issuance of a writ in the nature of mandamus directing the respondents to count the service rendered by her deceased-husband as Octroi Mohrrar (Clerk) with Municipal Committee, Bahadurgarh for the purpose of qualifying service for grant of first ACP, other retiral and ancillary benefits.

2. Few facts may be noticed. Petitioner is the wife of Chandan Singh, who died in harness on 27.02.2006. Her husband was appointed as a Class-IV employee by direct recruitment with Municipal Committee in 1978 and was promoted to the post of Octroi Clerk on 10.05.1990. After the Government of Haryana, abolished Octroi, employees working on the collection of Octroi in the local bodies became surplus and were adjusted in various government departments, Boards, Corporations and public

undertakings. Petitioner's husband was appointed as a Clerk in the PWD Department vide order dated 30.12.1999. Claiming that he was entitled to the first ACP after the notification of the Haryana Civil Services (Assured Career Progression) Rules, 1998 (for short "ACP Rules"), her husband filed a representation, which was rejected. He approached this Court by filing a writ petition, which was disposed of by a Division Bench of this Court by order dated 24.03.2003, Annexure P-1, in terms of the earlier decisions. By virtue of office order dated 30.04.2013, Annexure P-3, passed after the death of her husband, respondent No.2 granted the first ACP Grade Pay w.e.f. 01.01.2006. Petitioner submitted representation dated 20.10.2021, Annexure P-4, which was followed by undated legal notice under Section 80 CPC, Annexure P-6, claiming that her husband's service was liable to be counted from the day he joined service with the Municipal Committee and he was entitled to grant of ACP w.e.f. 09.05.2000, instead of 01.01.2006. When both the representation and legal notice were not attended to, petitioner has approached this Court by filing the present petition.

3. Heard counsel for the petitioner.

4. It is evident from the facts on the record that order, Annexure P-3, was passed in April, 2013 and a copy thereof was endorsed to the petitioner, but she did not take any step to challenge it. Eight years after the passing of the order, Annexure P-3, she submitted a representation, Annexure P-4, and thereafter, legal notice, Annexure P-6, is served. Mere submission of a representation or a legal notice will neither extend the period of limitation nor is a sufficient explanation for sleeping over the rights. Although, period of limitation has not been

prescribed for the writ Courts to exercise their power under Article 226 of the Constitution, but an aggrieved person is required approach the Court without any loss of time and in case, there is any delay on his/her part, sufficient satisfactory explanation should be given. Perusal of the petition shows that there is not even a whisper of a reason for delay nor could it be explained during the course of arguments.

5. At this stage, a request has been made by counsel for the petitioner for a direction to the respondents to consider the representation/legal notice, which deserves to be turned down. Hon’ble Supreme Court in *Union of India Versus M.K.Sarkar, (2010) 2 SCC 59* observed as follows:-

“.....A Court or Tribunal, before directing ‘consideration’ of a claim or representation should examine whether the claim or representation is with reference to a ‘live’ issue or whether it is with reference to a ‘dead’ or ‘stale’ issue or dispute. If it is with reference to a ‘dead’ or ‘state’ issue or dispute, the court/Tribunal should put an end to the matter and should not direct consideration or reconsideration.....”

6. For the reasons recorded above, this Court is of the view that the petition being barred by delay and laches, deserves to be and is hereby dismissed.

(SUVIR SEHGAL)
JUDGE

17.04.2023
Kamal

Whether speaking/ reasoned	Yes/ No
Whether Reportable	Yes/ No