

2023:PHHC:037566

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

CWP-20993-2022 (O&M)
Date of decision: 09.03.2023

Girdhari Mal

....Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Harinder Sharma, Advocate for the petitioner

Mr. R.S.Pandher, Sr.DAG, Punjab

ANIL KSHETARPAL, J (Oral)

1. The petitioner prays for the issuance of a writ in the nature of Certiorari to quash the order dated 25.04.2000 and memo dated 26.05.2000. In substance, the petitioner claims that he has been wrongly deprived of the promotion as a Head Master, on an illegal ground of poor results.

2. The petitioner, on attaining the age of superannuation, has already retired on 30.10.2001. Previously, he filed a writ petition, which was disposed of, on 17.05.2011, where the Court directed the respondents to do the needful, within a period of 4 months. Pursuant to the said directions, the Director, Public Instructions (Secondary Education), Punjab passed an order in May, 2012, rejecting the petitioner's claim for promotion. Thereafter, the petitioner sent a notice on 02.05.2022, which has been considered and rejected by the competent authority, on the ground of delay and laches.

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. On being confronted with the question of huge delay and laches in filing the writ petition, the learned counsel representing the petitioner relies upon the judgment passed by the Supreme Court in **Union of India and others vs. Tarsem Singh 2008 (8) SCC 648** to contend that where the service related claim is arising, from a continuous wrong, then it will not be appropriate to reject the claim on the ground of delay and laches. Learned counsel, while referring to para 7 of the judgment submits that the petitioner's claim is still required to be considered on merits even though he has retired more than 21 years ago.

5. Para 7 of the judgment in **Union of India's case (supra)** reads as under:-

“7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render

the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.”

6. As already noticed, the petitioner, in substance claims that he has been wrongly deprived of promotion as a Headmaster. It is evident that with regard to the claim involving the issues relating to seniority or promotion, the delay would render the claim stale and doctrine of laches/limitation will apply.

7. Hence, the aforesaid judgment does not help the case of the petitioner. Therefore, the writ petition is dismissed solely on the ground of delay and laches.

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

09.03.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE