

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(116)

LPA-556-2024 (O&M)
Decided on : 28.02.2024

Balbir Singh Dhama

.....Appellant(s)

Versus

State of Haryana and others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present: Ms. Neha Jain, Advocate(Legal Aid Counsel)
for the appellant (s).

Mr. Deepak Balyan, Addl. AG, Haryana.

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-1354-LPA-2024

Application for condonation of delay of 266 days in filing the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit of the appellant. Delay of 266 days in filing the appeal is condoned.

CM stands disposed of.

LPA-556-2024

Consideration in the present letters patent appeal is sought of the order of the learned Single Judge dated 03.05.2023 passed in CWP-4619-2023, whereby the writ petition filed by the appellant was dismissed. The prayer as such was sought for protection of the pay of the writ petitioner in the pay scale of Rs160-400 instead of Rs.110-225, on the ground that he initially had been appointed in the higher scale on 20.06.1978 as a Salesman and his services had been terminated on 13.11.1978. He had been again appointed on 01.01.1979.

2. The Learned Single Judge noticed various representations which were made by the petitioner during the period of service. It was noticed that his representations for pay protection had been rejected way-back in the year 2006 and the writ petitioner had not challenged the said order, which had attained finality. He had been promoted as District Manager w.e.f. 10.07.2015 and had also challenged the same on the ground that it should have been made from 2013 by way of filing CWP-24553-2019, which is stated to be pending. In such circumstances, on account of inordinate delay of 23 years, the present writ petition was dismissed.

3. We have also perused the office order dated 10.10.2016 (Annexure P-6), whereby the Chairman as such of the Corporation had considered the service record and representation of the writ petitioner who had retired on 31.08.2015, wherein he had sought consideration of his promotion and also the benefit of pay protection. It was noticed that he had been demanding pay protection in the pay scale of Salesman and his applications moved in the year 1996 were duly considered and he was informed vide letter dated 18.02.1997 that he was not entitled for the benefit. He had been allowed to change his cadre as Salesman with effect from the date of joining as Clerk and his pay was fixed in accordance with the rules. He had also filed CWP-1155 of 1998 wherein he had challenged the non-promotion and supersession post of Senior Manager w.e.f. 01.07.1996. The office order further goes on to show that his pay fixation was examined and he had only worked for less than five months as Salesman and before the clearance of probation period his services were terminated as there were charges of dismantling of exhibition of shoes at Jind and on account of non-clearance of probation period, the

benefit of pay protection was not granted and his case had been filed in the year 2006 and he had also been informed in the year 2008.

4. Resultantly, we are of the considered opinion that the Learned Single Judge was right in coming to the conclusion that the cause of action accrued when his case was filed way-back in the year 2006 which was intimated in the year 2008 and the writ petition filed after more than two decades suffered from inordinate delay and laches. In such circumstances, non-interference by the Learned Single Judge does not warrant any interference in the present letters patent appeal and the same is, accordingly, dismissed in limine.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

28.02.2024
Naveen

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No