

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-2112-2023 (O&M)

Date of decision:- 12.02.2024

Charanjit Shaunik

...Appellant(s)

Versus

State of Punjab and others

...Respondent(s)

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

Present: Ms. Komal Balain, Advocate,
 for Mr. Vikas Malik, Advocate,
 for the appellant.

Mr. Saurav Khurana, Additional Advocate General, Punjab.

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G.S. SANDHAWALIA, A.C.J. (ORAL)

CMs-5286 & 5287-LPA-2023

For the reasons mentioned therein, the delay of 114 days in re-filing and 14 days in filing the appeal is condoned.

The applications stand disposed of.

LPA-2112-2023

1. The consideration of the judgement in CWP-551-2022 passed by the learned Single Judge on 28.03.2023 is sought for in the present Letters Patent Appeal.
2. The learned Single Judge had dismissed the writ petition, wherein the writ petitioner had claimed the relief of setting aside the impugned seniority lists dated 15.10.2009 (Annexure P-6), 26.05.2014 (Annexure P-5) and 25.11.2019 (Annexure P-13) on the ground that the appellant was a direct recruit and had been wrongly and illegally placed junior to the departmentally promoted candidate (respondent No. 5). Challenge was also raised to the orders dated 12.08.2014 (Annexure P-10), 08.03.2016 (Annexure P-12) and

the decision dated 19.12.2019 (Annexure P-15), whereby the claim to correct the seniority list had been wrongly and illegally rejected. The same is stated to be on the basis of Rule 14(i) of the Executive Circular dated 08.08.2006 (Annexure P-19) which is also subject matter of challenge.

3. On a conjoint reading of the Punjab Local Fund Audit State Service (Class III) Rules, 1979 and the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994, the learned Single Judge noticed that the private respondent was appointed and joined as Section Officer prior to the writ petitioner and possessed a longer duration of service. His joining as such was on 19.12.2007 pursuant to the proceedings of the Departmental Promotion Committee, whereas the appellant was appointed as a direct recruit on 07.01.2008 and only joined on 21.01.2008. Resultantly, he was placed above the private respondent in the first seniority list dated 15.10.2009. Both of them were then promoted as Assistant Director/ Controller on 17.02.2014 and a seniority list of the Assistant Directors/ Controllers was also issued. The rejection to the same was done apparently on 12.08.2014 (Annexure P-10), whereby it is noticed that his appointment was in subsequent point of time and, therefore, the request was not worthy of acceptance.

4. The second round of promotions as Deputy Director/Controller took place on 12.06.2019 which led to the fresh cause of action of submitting of objections which were rejected on 19.12.2019 (Annexure P-15). Prior to that also the objections regarding seniority list of the Assistant Director/Controller had been rejected vide communication dated 08.03.2016 (Annexure P-12). The final rejection on 19.12.2019 gives reference of the earlier rejections also. Apparently, the cause of action had arisen much earlier

in the years 2008 and 2009. Challenge was never made at that point of time.
The first rejection was done on 12.08.2014.

5. In such circumstances, we are of the firm opinion that the findings which have been recorded by the learned Single Judge by noticing these facts are fatal to the case of the appellant. It is settled principle that in seniority matters one is to agitate for his grievance at the earliest. Reference can be made to the judgement of the Supreme Court in *P.S. Sadasivaswamyy Vs State of Tamil Nadu*, 1975(1) SCC 152 in this context, which has been followed in *Shiba Shankar Mohapatra and others Vs State of Orissa and others*, 2010(12) SCC 471 and *Union of India and others Vs C. Girija and others*, 2019(15) SCC 633.

6. Thus, keeping in view the above, merely by filing repeated representations and getting varying orders of rejection would not give a fresh cause of action. Therefore, the cause of action had long died in the year 2009 after which the appellant had been promoted twice and on the said principle itself, the writ petition was not maintainable at this belated point of time. Resultantly, we do not find any reason to interfere in the order of the learned Single Judge.

7. The appeal being meritless, accordingly, stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

12.02.2024
Amodh Sharma

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No