

CWP-21428 of 2021

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

CWP-21428 of 2021

Date of decision: 05.12.2025

Dr. Chuni Lal

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. H.K. Aurora, Advocate,
for the petitioner.

Mr. Surya Kumar, AAG, Punjab.

Mr. K.S. Dadwal, Advocate,
for respondent No.5.

NAMIT KUMAR, J.

1. The present case is a very unique and classic case, where after five years of his retirement, the petitioner has approached this Court claiming seniority over and above respondent No.5, who stood retired on 30.09.2017. Although the claim of seniority becomes infructuous as both, petitioner as well as respondent No.5, have already retired from service much before filing of the present petition, however, learned counsel for the petitioner insisted that the case be decided on merits.

2. The petitioner has approached this Court by filing the instant petition under Article 226 of the Constitution of India, seeking a writ of *mandamus* for directing the respondents to treat the petitioner as senior to respondent No.5 and to give him all the consequential benefits

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of promotions, salary, reservation etc., from the date respondent No.5 was given all such benefits.

3. Brief facts, as have been pleaded in the petition, are that the petitioner, who belongs to Scheduled Caste category, was appointed as a Medical Officer on short-term basis for a period of six months and he joined as such on 09.03.1984. Thereafter, in the year 1984, an advertisement was issued by the Punjab Public Service Commission (herein after referred to as 'the Commission') for direct recruitment of medical officers. The petitioner applied for the said post and was called for an interview and was duly selected by the selection committee. Pursuant thereto, an appointment letter dated 24.01.1985 (Annexure P-1) was issued in his favour and he joined as such on 07.02.1985. It has further been pleaded that petitioner was posted as Senior Medical Officer, vide office order dated 29.06.2010 (Annexure P-3), and thereafter, he was promoted on the said post, vide order dated 06.08.2012. Furthermore, after attaining the age of superannuation on 31.03.2015, he was given an extension in service for one year and thereafter he retired from the office of Civil Surgeon, Hoshiarpur, as Senior Medical Officer on 31.03.2016.

The father of respondent No.5, Sh. Om Parkash, who was a former MLA, was killed by terrorists during the terrorism days on 02.06.1984. Thereafter, respondent No.5 was appointed as Medical Officer on short-term basis on 19.11.1984 (Annexure P-4) as per instructions dated 05.04.1984. Thereafter, vide order dated 13.08.1988 (Annexure P-6), his services were regularised w.e.f. 14.06.1988. He

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submitted representation claiming regularisation from 19.11.1984 when he was initially appointed. The said claim was accepted by the respondents vide order dated 17.03.1992 (Annexure P-12) and his services were regularised w.e.f. 19.11.1984. Thereafter, he was promoted as Senior Medical Officer on 07.10.2009, as Civil Surgeon on 21.01.2016 and retired as such on 30.09.2017. It is the case of respondent No.5 that his services were ordered to be regularised w.e.f. 19.11.1984 (Annexure P-12), however, he was not assigned correct seniority in the seniority list dated 30.03.1992, therefore, he filed CWP No.19366 of 2008 claiming the following relief: -

“Civil Writ Petition under Articles 226/227 of the Constitution of India for issuance of appropriate writ, order or direction especially a writ in the nature of mandamus directing the respondents to assign the correct seniority number in the seniority list as per order dated 30th March 1992 (Annexure P-2), whereby the petitioner was granted regularisation w.e.f. 19.11.1984 and further order the probe against the erring officials who have not affected the change as per the order dated 30th March, 1992 (Annexure P-2) and to take remedial action.”

The said writ petition was disposed of by a Division Bench of this Court, vide order dated 14.11.2008, with a direction to the respondents to consider and decide the representation, within a period of six months, from the date of receipt of certified copy of the order and in case the representation filed by the petitioner is to be accepted and any person would be adversely effected then the effected person be given an opportunity of hearing. In compliance thereto, respondent No.1 passed speaking order dated 20.02.2009 (Annexure P-



19) and allotted Service No.4223-A instead of 5016 to respondent No.5.

4. It is the case of the petitioner that the petitioner remained posted at different places, therefore, he was not aware of all these facts whereby the seniority of respondent No.5 was changed and the fact that undue advantage was given to respondent No.5 when he was appointed as a Medical Officer and, therefore, he could not question the seniority assigned to respondent No.5 and he only came to know about the said facts when another employee, namely, Amandeep Kaur sought information under the Right to Information Act in the last week of April 2019 and it came to the knowledge of the petitioner for the first time that respondent No.5 was junior to him and he had been wrongly placed senior to him behind his back. Therefore, the petitioner issued legal notice dated 27.06.2019 (Annexure P-22) to the respondents and requested that he should be given all the benefits as have been given to respondent No.5. However, the benefits claimed by the petitioner were rejected by the official respondents by a non-speaking order dated 07.01.2020 (Annexure P-23). Thereafter, he submitted various applications under the RTI Act for getting various seniority lists from time to time and after receiving the same, instant petition has been filed claiming seniority over and above respondent No.5, along with all the benefits given to respondent No.5.

5. Separate written statements have been filed on behalf of respondents No.1 to 3 and 5. In the written statement filed on behalf of respondents No.1 to 3 it has been stated that the petitioner is

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challenging the office order dated 13.08.1988 after a lapse of more than 32 years, therefore, the petition may be dismissed solely on the ground of delay and laches. It has also been stated that the Department of Health and Family Welfare sent a letter dated 05.08.1985 to the Secretary, Punjab Public Service Commission, regarding regularisation of services of respondent No.5, whose father Sh. Om Parkash, former MLA, was killed by the terrorists on 02.06.1984 and the said proposal was accepted by the Commission and one post of PCMS-I was taken out of the purview of the Commission and consequently, the services of respondent No.5 was regularised w.e.f. 19.11.1984 and later on his seniority was changed from 5016 to 4223-A.

6. Respondent No.5 in his written statement has stated that the petitioner has agitated the stale and time-barred claim not only for harassing, humiliating and victimising respondent No.5 but has also levelled false, concocted and manipulated allegations in the writ petition much after his retirement and the petition be dismissed on account of delay and laches. It has further been stated that father of respondent No.5, Sh. Om Parkash, was serving as a Principal and during the period when terrorism was at peak in Punjab, he was gunned down by the terrorists on 02.06.1984, who was the sole breadwinner of the family and, therefore, after his death, the family was facing starvation. Therefore, keeping in view various conscious policy decisions of the Government of Punjab to mitigate the circumstances of the family whose breadwinner had been gunned down by the terrorists, policies to appoint suitable member of the family were framed.

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Resultantly, respondent No.5, who was dependent upon his father, was given appointment as per his qualification to the post of Medical Officer on 19.11.1984 and thereafter his services were regularised in the year 1988. However, regularisation was not given from the date of his initial appointment, therefore, he submitted various representations and the competent authority after scanning and screening the case of respondent No.5, regularised his services w.e.f. 19.11.1984 and he was assigned correct seniority after issuance of directions by this Court vide order dated 14.11.2008 in CWP No.19366 of 2008. Thereafter, he was promoted to the post of Senior Medical Officer and Civil Surgeon and retired on 30.09.2017.

7. Learned counsel for the petitioner has submitted that the appointment of respondent No.5 made in the year 1984 to the post of Medical Officer itself was not as per the policies of the Government and, therefore, consequent regularisation vide order dated 13.08.1988 w.e.f. 19.11.1984 and his further promotions to the post of Senior Medical Officer and Civil Surgeon are also illegal and the petitioner is entitled for seniority over and above respondent No.5 as his date of appointment as Medical Officer on regular basis is 24.01.1985. He further submitted that since the petitioner remained posted at various stations in the State of Punjab, therefore, he was not aware about the initial appointment of respondent No.5 and his subsequent regularisation from the earlier date and further promotions to the posts of Senior Medical Officer and Civil Surgeon and he only came to know about the said facts when another employee, namely, Amandeep Kaur

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sought information under the Right to Information Act in the last week of April 2019 and it came to the knowledge of the petitioner for the first time that respondent No.5 was junior to him and he had been wrongly placed senior to him behind his back. Therefore, there is no delay in approaching this Court.

8. *Per contra*, learned State counsel and learned counsel for respondent No.5 have vehemently opposed the claim of the petitioner by submitting that the present writ petition is liable to be dismissed on account of delay and laches. The petitioner cannot be allowed to take up a stale claim and that too after retirement. It has further been submitted that the appointment of respondent No.5 was in conformity with the existing policies of the State Government as father of respondent No.5, who was a former MLA, was killed by the terrorists on 02.06.1984 and respondent No.5 was offered appointment as Medical Officer on short-term basis and his services were regularised in the year 1988. Thereafter respondent No.5 submitted representations claiming regularisation with effect from the initial date of his appointment, which was considered by the Government and his services were regularised w.e.f. 19.11.1984 and consequently, his seniority was changed from 5016 to 4223-A. Thereafter, he was promoted as Senior Medical Officer and Civil Surgeon and retired as such on 30.09.2017.

9. I have heard learned counsel for the parties and perused the record.

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10. The facts are not in dispute that petitioner joined as Medical Officer on short-term basis for a period of six months on 09.03.1984 and thereafter in pursuance to the advertisement issued by the Commission, he was appointed as a Medical Officer on regular basis vide appointment letter dated 24.01.1985 (Annexure P-1) and he joined as such on 07.02.1985 (Annexure P-2). He was assigned seniority No.4409. He was assigned the duties of the post of Senior Medical Officer vide order dated 29.06.2010 (Annexure P-3) and thereafter he was regularly promoted as Senior Medical Officer vide order dated 06.08.2012. Though, he was due to retire on attaining the age of superannuation on 31.03.2015, however, he got one-year extension in service and retired as Senior Medical Officer on 31.03.2016.

Respondent No.5 was initially appointed as Medical Officer on 19.11.1984 (Annexure P-4) on short-term basis for a period of six months. He joined on 26.11.1984 and his services were regularised vide order dated 13.08.1988 (Annexure P-6). Thereafter, after submitting various representation(s), his services were regularised w.e.f. 19.11.1984 i.e. the date of his initial appointment, vide order dated 17.03.1992 (Annexure P-12).

11. Admittedly, petitioner and respondent No.5 have already retired from service on attaining the age of superannuation on 31.03.2016 and 30.09.2017, respectively. An employee cannot raise the issue of seniority after retirement. While the petitioner was in service, he never raised any issue either of seniority or questioning the

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appointment of respondent No.5 as Medical Officer, thus, he cannot raise the said issue after five years of his retirement. Even the legal notice served by him is dated 27.06.2019 (Annexure P-22) and the same was replied to by the respondents vide their letter dated 07.01.2020 (Annexure P-23).

12. The Hon'ble Supreme Court in ***S. Sumnyan & Ors. v. Limi Niri & Ors., 2010(3) SCT 289*** has held that seniority list cannot be challenged after a considerable delay. In the said case, the seniority list was challenged after ten years of its issuance and the Hon'ble Supreme Court in paras 28 and 29 of the said judgment has held as under: -

“28. It is, thus, clearly established that the respondent No. 1 was inducted into Government service by a separate mode of recruitment than that of the appellants and therefore their cases cannot be equated. The statement of the Government of Arunachal Pradesh that the provisional seniority lists were regularly published by the Public Works Department Secretariat from time to time since 1990 to 1999, with ample time being given to the incumbents to reply against any anomaly in the seniority list and that the respondent No. 1 never submitted any representation in that regard is not disputed. The respondent No. 1, therefore, had challenged the established seniority position after about 10 years and that too without challenging the basic and the fundamental orders of giving the appellants the benefit of regularised service from their initial date of appointment as Assistant Engineers.

29. The challenge appears to us to be belated and in this regard we would endorse the same view as expressed by

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this Court in the case of Shri L. Chandrakishore Singh v. State of Manipur & Ors. reported in 1999(4) S.C.T. 469 : (1999) 8 SCC 287.....”

13. A Division Bench of this Court in ***Shyam Lal Gupta and ors. v. State of Punjab and ors., 2012(1) SCT 198***, while relying upon the judgment of the Hon’ble Supreme Court in ***Rabindra Nath Bose and others v. Union of India and others, 1970 AIR Supreme Court 470***, has held that the matter concerning the seniority cannot be reopened as it unsettles the settled position.

14. A Division Bench of this Court in ***Ram Kumar vs State of Haryana and others, 2022 (3) SCT 346***, while rejecting the claim of the petitioner for counting of his ad hoc service, for the purpose of seniority/pension and regularization in service on completion of 02 years as per policy, held that the petition filed by him suffered from gross, inordinate and unexplained delay in approaching the High Court. In the said judgment, it has been held as under:-

*“10. What we wish to emphasize, in particular, is that services of the appellant were regularized w.e.f. 01.04.1997. And, he was assigned a specific seniority position in the cadre. Whereafter, he continued to serve the department for nearly twenty five years, before attaining the age of superannuation in January, 2022. Needless to assert that during all these years, he availed all admissible benefits, promotions, and retired as Inspector. Thus, it rather appears that institution of the petition by the appellant was speculative and an attempt to resurrect a stale and dead claim. The Supreme Court, in ***New Delhi Municipal Council v. Pan Singh & Ors., 2007(9) SCC 278***, observed:*

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*“15. There is another aspect of the matter which cannot be lost sight of. Respondents herein filed a Writ Petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the Writ Petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the Court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction. See **Govt. of W.B. v. Tarun K. Roy And Others [(2004) 1 SCC 347]**, **Chairman, U.P. Jal Nigam & Anr. v. Jaswant Singh And Anr. [2006 (12) SCALE 347]** and **Karnataka Power Corpn. Ltd. through its Chairman & Managing Director and Another v. K. Thangappan and Another [(2006) 4 SCC 322]**”*

11. Similarly, in **Jagdish Lal & Ors. v. State of Haryana & Ors., (1997) 6 SCC 538**, it was held by the Supreme Court:

“That apart, as this Court has repeatedly held, the delay disentitles the party to the discretionary relief under Article 226 or 32 of the Constitution. It is not necessary to reiterate all catena of precedents in this behalf. Suffice it to state that the appellant kept sleeping over their rights for long and elected to wake up when they had the

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impetus from Vir Pal Chauhan and Ajit Singh's ratios..... Therefore, desperate attempts of the appellants to re-do the seniority had by them in various cadres/grades though in the same services according to 1974 Rules or 1980 Rule, are not amenable to judicial review at this belated stage...."

12. *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."*

15. The Hon'ble Supreme Court in ***State of Uttaranchal and another v. Sri Shiv Charan Singh Bhandari and others, 2013(12) SCC 179***, while considering the issue regarding delay and laches and referring to the earlier judgments on the said issue, opined that repeated representations made will not keep the issue alive. A stale or a dead issue/dispute cannot be revived even if such a representation has either been decided by the authority or got decided by getting a direction from the court as the issue regarding delay and laches is to be decided with reference to original cause of action and not with reference to any such order passed. Delay and laches on the part of a government servant may disentitle him from receiving the benefit that had been granted to others. Article 14 of the Constitution of India would not be attracted as it is a well-established principle that the law favours those who are alert and vigilant. Even equality has to be claimed at the right juncture and not on expiry of a reasonable period of time. Even if there is no period prescribed for filing the writ petition under Article 226 of the Constitution of India, yet it should be filed within a reasonable period

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of time. An order promoting a junior should normally be challenged within a period of six months or at the most in a year of such promotion. Though it is not a strict rule, the courts can always interfere even subsequent thereto, but relief to a person, who allows things to happen and then approach the court and puts forward a stale claim and tries to unsettle settled matters, can certainly be refused on account of delay and laches. Anyone who sleeps over his rights is bound to suffer the consequences. An employee who remains dormant like a ‘Rip Van Winkle’ and awakens from his slumber at his own convenience cannot claim relief, as such conduct justifies denial on the ground of delay and laches. Relevant paragraphs from the aforesaid judgment are extracted below:

*“13. We have no trace of doubt that the respondents could have challenged the ad hoc promotion conferred on the junior employee at the relevant time. They chose not to do so for six years and the junior employee held the promotional post for six years till regular promotion took place. The submission of the learned counsel for the respondents is that they had given representations at the relevant time but the same fell in deaf ears. It is interesting to note that when the regular selection took place, they accepted the position solely because the seniority was maintained and, thereafter, they knocked at the doors of the tribunal only in 2003. It is clear as noon day that the cause of action had arisen for assailing the order when the junior employee was promoted on ad hoc basis on 15.11.1983. In **C. Jacob v. Director of Geology and Mining and another, 2008(4) SCT 604 : (2008) 10 SCC 115**, a two-Judge Bench was dealing with the concept of representations and the directions issued by the court or*

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tribunal to consider the representations and the challenge to the said rejection thereafter. In that context, the court has expressed thus:-

“Every representation to the Government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. In regard to representations unrelated to the Department, the reply may be only to inform that the matter did not concern the Department or to inform the appropriate Department. Representations with incomplete particulars may be replied by seeking relevant particulars. The replies to such representations, cannot furnish a fresh cause of action or revive a stale or dead claim.”

16. In ***Union of India and others v. M. K. Sarkar, (2010) 2 SCC 59***, the Hon’ble Supreme Court, after referring to ***C. Jacob v. Director of Geology and Mining and another, 2008(4) SCT 604*** has ruled that when a belated representation in regard to a “stale” or “dead” issue/dispute is considered and decided, in compliance with a direction by the court/tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the “dead” issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a Court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches.

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17. From the aforesaid judgments, it is crystal clear that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix. Similarly, a mere submission of representation to the competent authority does not arrest time. In ***Karnataka Power Corporation Ltd. through its Chairman & Managing Director and another v. K. Thangappan and another, (2006) 4 SCC 322***, the Court took note of the factual position and held that when nearly for two decades the respondent/workmen therein had remained silent, mere making of representations could not justify such a belated approach.

18. In ***State of Orissa v. Sri Pyarimohan Samantaray and others, (1977) 3 SCC 396***, it has been opined that making of repeated representations is not a satisfactory explanation of delay. To the same effect is the judgment in ***State of Orissa etc. v. Shri Arun Kumar Patnaik and another, (1976) 3 SCC 579***.

19. In ***Bharat Sanchar Nigam Limited v. Ghanshyam Dass and others, (2011) 4 SCC 374***, a three-Judge Bench of the Hon'ble Supreme Court reiterated the principle stated in ***Jagdish Lal v. State of Haryana, 1998(1) SCT 26 : (1997) 6 SCC 538*** and proceeded to observe that as the respondents therein preferred to sleep over their rights and approached the tribunal in 1997, they would not get the benefit of the order dated 7.7.1992.

20. In ***State of Tamil Nadu v. Seshachalam, (2007) 10 SCC 137***, the Hon'ble Supreme Court, testing the equality clause on the



bedrock of delay and laches pertaining to grant of service benefit, has ruled thus:-

“11..... filing of representations alone would not save the period of limitation. Delay or laches 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 laches 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.....”

21. In ***New Delhi Municipal Council v. Pan Singh and others, (2007) 9 SCC 278***, the Hon’ble Supreme Court has opined that though there is no period of limitation provided for filing a writ petition under Article 226 of the Constitution of India, yet ordinarily a writ petition should be filed within a reasonable time. In the said case the respondents had filed the writ petition after seventeen years and the court, as stated earlier, took note of the delay and laches as relevant factors and set aside the order passed by the High Court which had exercised the discretionary jurisdiction.

22. In ***Union of India & Anr vs Manpreet Singh Poonam Etc., 2022(4) SCT 550***, the Hon’ble Supreme Court, has held as under:-

“16. It is trite law that once an officer retires voluntarily, there is cessation of jural relationship resorting to a "golden handshake" between the employer and employee. Such a former employee cannot seek to agitate his past, as well as future rights, if any, sans the prescription of rules. This would include the enhanced pay

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scale. The Respondent in Civil Appeal No.517 of 2017 was rightly not considered in the DPC in 2012 since he was no longer in service at the relevant point of time. The High Court has committed an error in relying upon a circular, which has got no application at all, particularly in the light of our finding that we are dealing with a case of promotion simpliciter as against upgradation of any nature.”

23. In view of the above authoritative enunciation of law by the Hon’ble Supreme Court and this Court, the aforesaid issues as raised in the present writ petition filed by the petitioner after about 05 years of his retirement, cannot be allowed to be agitated, at this stage and consequently, the present petition is dismissed on the ground of delay and latches.

05.12.2025
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No