



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

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**CWP-21745-2021 (O&M)
Date of Decision: 17.11.2025**

KISHORE KUMAR AND ANR**.....Petitioners****Vs.****STATE OF PUNJAB AND OTHERS****.....Respondents****CORAM: HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA**

Present: Mr. Gopal Singh Nahel, Advocate for the petitioners.

Mr. Charanpreet Singh, AAG, Punjab.

DEEPINDER SINGH NALWA, J. (ORAL)

1. In the present writ petition, the petitioners have challenged the reply dated 15.01.2021 (Annexure P-6) vide which the claim of the petitioners for giving the notional benefit of appointment w.e.f. December 2001 i.e. the date other candidates were selected in the same selection process, in pursuance to the advertisement dated 02.04.2000, has been rejected.

2. Brief facts of the case are that petitioners served in Indian Army from 1982 to October 1988. The respondents issued advertisement dated 02.04.2000 inviting applications for appointment to 7230 posts of ETT Teachers. The petitioners being eligible applied for the abovesaid posts of ETT Teachers. Thereafter, the petitioners were called for interview in August, 2001. However, the candidature of the petitioners was not considered on the ground that petitioners did not produce the certificate equal to Junior Diploma in Education JBT/ETT, which was essential qualification for the appointment of ETT Teachers. The petitioners visited the office of respondent No.2 for reconsideration of their case being fully eligible for the abovesaid post. The

District Solider Welfare Officer, Hoshiarpur vide letter dated 26.12.2001

recommended the cases of the petitioners to the Departmental Selection Committee (Primary), Hoshiarpur, Punjab. The case of the petitioners were considered and appointment letters were issued to the petitioners on 09.05.2002. In pursuance to the abovesaid appointment letters, the petitioners joined on the posts of ETT Teachers.

3. The respondents again issued advertisement dated 04.12.2001 inviting applications for 3311 posts of JBT/ETT Teachers. Appointments were made in the year 2002 in pursuance to the abovesaid advertisements prior to the petitioners. As the petitioners were appointed on 09.05.2002 and the candidates in pursuance to the subsequent advertisement dated 04.12.2001 were appointed before the petitioners on the posts of JBT/ETT Teachers, petitioners were shown junior in seniority. As the petitioners were shown junior, they approached the respondents by way of representation dated 29.03.2019 (Annexure P-3). In the representation the case of the petitioners was that as there was no fault on part of petitioners, therefore, petitioners should be given appointment with effect from the date of other candidates were appointed from the very same selection process. However, no decision was taken by the respondents on the representation dated 29.03.2019 (Annexure P-3) submitted by the petitioners. As a consequence of this, the petitioners served a legal notice dated 30.10.2020 (Annexure P-4) upon the respondents after 18 years. In pursuance to the abovesaid legal notice dated 30.10.2020 (Annexure P-4) the respondents-department passed reply/order dated 15.01.2021 (Annexure P-6). Aggreived against the abovesaid reply/order dated 15.01.2021 (Annexure P-6), petitioners have filed the present petition.

4. Learned counsel for the petitioners submits that petitioners were issued appointment letter dated 09.05.2002, whereas the candidates who were

December 2001. As there was no fault on part of the petitioners in regard to delay in issuance of the appointment letter in the year 2002, as such, the petitioners should also be appointed on notional basis with effect from December 2001 along with all consequential benefits.

5. Learned counsel for the respondents-State submits that in fact, the petitioners were not appointed along with other selected candidates for the reasons that the petitioners did not submit essential educational certificates pertaining to their eligibility. After the abovesaid essential certificates were submitted by the petitioners, the respondent-department issued appointment letters to the petitioners on 09.05.2002. Taking into consideration the date of appointment, seniority of the petitioners has been fixed accordingly.

6. It is also the case of respondents that petitioners never raised any objection in regard to the date of appointment and infact both the petitioners have already retired from the service.

7. Learned State counsel further submits that the petitioners have filed the present petition after a gap of 19 years from the date of issuance of appointment letter dated 09.05.2002. Therefore, the present writ petition is liable to be dismissed on the ground of delay and laches.

8. I have heard learned counsel for the parties at length.

9. It is well-settled law that where there is an inordinate delay in filing the writ petition, the writ petition should not ordinarily be entertained. A perusal of the facts of the present case would show that no explanation has been given by the petitioner in knocking the doors of this Court after such an inordinate delay.

10. ***In State of M.P. and others vs. Nandlal Jaiswal and others, (1986)***

4 SCC 566, the Supreme Court has held that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution of India is

discretionary and that the High Court in the exercise of its discretionary power would not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there was inordinate delay on the part of the petitioner in filing of the writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction.

The relevant extract of the judgment in *Nandlal Jaiswal's case (surpa)* reads as under:-

“24. Now, it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. The evolution of this rule of laches or delay is premised upon a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy under the writ jurisdiction because it is likely to cause confusion and public inconvenience and bring in its train new injustices. The rights of third parties may intervene and if the writ jurisdiction is exercised on a writ petition filed after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. When the writ jurisdiction of the High Court is invoked, unexplained delay coupled with the creation of third party rights in the meanwhile is an important factor which always weighs with the High Court in deciding whether or not to exercise such jurisdiction. We do not think it necessary to burden this judgment with reference to various decisions of this Court where it has been emphasised time and again that where there is inordinate and unexplained delay and third party rights are created in the intervening period, the High Court would decline to interfere, even if the State action complained of is unconstitutional or illegal. We may only mention in the passing two decisions of this Court one in *Ramanna Dayaram Shetty v. International Airport Authority of India*, (1979)3 SCR 1014 and the other in *Ashok Kumar v. Collector, Raipur*, (1980)1 SCR 491. We may point out that in *R.D. Shetty's case (supra)*, even though the State action was held to be unconstitutional as being violative of Article 14 of the Constitution,

this Court refused to grant relief to the petitioner on the ground that the writ petition had been filed by the petitioner more than five months after the acceptance of the tender of the fourth respondent and during that period, the fourth respondent had incurred considerable expenditure, aggregating to about Rs.1.25 lakhs, in making arrangements for putting up the restaurant and the snack bar. Of course, this rule of laches or delay is not a rigid rule which can be cast in a straitjacket formula, for there may be cases where despite delay and creation of third party rights the High Court may still in the exercise of its discretion interfere and grant relief to the petitioner. But such cases where the demand of justice is so compelling that the High Court would be inclined to interfere in spite of delay or creation of third party rights would by their very nature be few and far between. Ultimately it would be a matter within the discretion of the Court; ex hypothesi every discretion must be exercised fairly and justly so as to promote justice and not to defeat it.”

11. In *New Delhi Municipal Council vs. Pan Singh and others*, (2007) 9 SCC 278, the Supreme Court held that though there is no period of limitation provided for filing of a writ petition under Article 226 of the Constitution of India but ordinarily a writ petition should be filed within a reasonable time and that discretionary relief may not be exercised in favour of those who approach the Court after a long time especially when there is no explanation offered for such delay. Paragraphs 16 and 17 of *Pan Singh's case (supra)* are reproduced below:-

“16. 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.

17. Although, there is no period of limitation provided for filing a Writ Petition under Article 226 of the Constitution of India, ordinarily, Writ Petition should be filed within a reasonable time.”

12. Further, the Hon'ble Supreme Court in **State of Uttaranchal and another Vs. Sri Shiv Charan Singh Bhandari and others, 2013 (6) SLR 629**, while considering the issue regarding delay and laches, held that a stale demand cannot be revived even if representation is decided by the authority or by getting a direction from the Court. Relevant extract is reproduced below:-

*“73. 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) 10 SCC 115**, a two-Judge Bench was dealing with the concept of representations and the directions issued by the court or 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.”

In **State of T.N. V. Seshachalam, (2007) 10 SCC 137**, held that mere filing of representations would not save the period of limitation. Relevant extract reads as under:-

“... 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.”

13. A perusal of the facts of the present case would show that it is an admitted fact that petitioners were appointed vide appointment letter dated 09.05.2002 and the present writ petition has been filed after an inordinate delay of more than 19 years and no reason has been given for delay in filing of the writ petition. Even otherwise, the petitioners have not challenged the abovesaid appointment letter dated 09.05.2002, therefore, no relief can be granted to the petitioners.

14. In view of the facts of the present case and aforesaid law laid down

ground of delay and latches.

15. Pending miscellaneous application(s), if any, stands disposed of.

(DEEPINDER SINGH NALWA)
JUDGE

17.11.2025
Ramandeep (P)

Whether speaking/reasoned : Yes

Whether reportable : Yes