

2025:PHHC:130195



218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-1825-2020 (O&M)
DECIDED ON: 09.09.2025

SANJAY KUMAR AND OTHERS

....PETITIONERS

VERSUS

UNION OF INDIA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.S. Salar, Advocate
for the petitioners.

Ms. Sonia Sharma, Advocate
for respondents No.1 and 2.

Mr. Subhash Aggarwal, Advocate
for respondent No.3.

SANDEEP MOUDGIL, J

1. Prayer

The jurisdiction of this Court under Articles 226/227 of the Constitution of India has been invoked for issuance of a writ in the nature of Certiorari for quashing of orders dated 29.12.2015 (Annexure P-10) to transfer Respondent No.3 in Sanitation Section against a non-existent post of Assistant and thereafter, giving a charge as Sanitary Inspector with further prayer to quash order dated 26.02.2016 (Annexure P-13) vide which Respondent No.3 was given a charge of Sanitary Superintendent.

2. *Brief Facts*

Brief facts of the case are that Respondent No. 3 was appointed as Conservancy Jamadar in 1987, but his services were regularized as a Clerk in

1992, allegedly in violation of the Cantonment Fund Servants Rules, 1937. Respondent No. 3 was given additional charge of Sanitary Inspector in 2001 and later promoted to the post despite the Principal Director, Defense Estates, Western Command, rejecting his confirmation due to violation of rules. Respondent No. 3 was promoted to Assistant in the Accounts Section in 2007, but he was transferred to the Sanitation Department and given charge of Sanitary Inspector and Sanitary Superintendent, despite no post of Assistant existing in the Sanitation Department. The petitioners allege that promotions and postings of Respondent No.3 were done in an illegal manner, with the active connivance of the Chief Executive Officer of the Cantonment Board. The petitioners filed complaints against Respondent No. 3 to various authorities, including the Chief Executive Officer, Ambala Cantonment, and the State Vigilance Bureau, Haryana, but no action has been taken so far.

3. **Submissions**

On behalf of petitioners

Learned counsel for the petitioners submits that the petitioners, employees of the Cantonment Board, Ambala, have alleged irregularities in the promotions and postings of Respondent No.3 and claims that actions of Respondent No.3 are in violation of the Cantonment Fund Servants Rules, 1937, and the service conditions of the Cantonment Board.

It is further contended that the appointment and promotion of Respondent No. 3, Sh. Sanjay Bansal, are ultra vires the Cantonment Fund Servants Rules, 1937, and contravene the principles of transparency and fairness in public employment. It is further argued that the regularization of Respondent No. 3 as a Clerk in 1992 and his subsequent promotions to Sanitary Inspector and

Assistant were effected without adherence to the prescribed procedure and in derogation of the statutory rules.

It is asserted that the transfer of Respondent No. 3 to the Sanitation Department and his assumption of charge as Sanitary Inspector and Sanitary Superintendent, despite the non-existence of the post of Assistant in the said department, constitutes a patent violation of the service conditions and rules governing the Cantonment Board. The Chief Executive Officer's role in facilitating the promotions and postings of Respondent No. 3 amounts to an abuse of power, resulting in favoritism and nepotism that undermines the functioning of the Cantonment Board.

On behalf of Respondents

Learned counsel for Respondents have submitted that the instant writ petition is devoid of merit and is liable to be dismissed on the grounds of lack of locus standi, non-disclosure of material facts, and delay and laches. The petitioners have failed to approach the Court with clean hands, thereby disentitling them to the discretionary relief under Article 226 of the Constitution of India. Furthermore, the petition is barred by limitation, having been filed after an inordinate delay of more than five years from the date of the Office Orders dated 29.12.2015 and 26.02.2016. On the merits of the case, it is submitted that appointment and subsequent promotions of Respondent No.3 were made in accordance with the rules and regulations governing the Cantonment Board. The regularization of Respondent No. 3 as a Clerk in 1992 and his additional charge as Sanitary Inspector in 2001 were administrative decisions taken in the interest of the Cantonment Board. The additional charge of Sanitary Superintendent and other duties assigned to Respondent No. 3 were necessitated by the absence of other Sanitary Inspectors and the need for continuity in administrative functions.

Therefore, the actions taken by Respondent No. 2 were in accordance with the rules and regulations governing the Cantonment Board, and the petitioners have failed to demonstrate any illegality or arbitrariness in the decision-making process.

4. Conclusion & Analysis

In view of the foregoing discussion and the material on record, this Court is of the considered view that the present writ petition lacks merits and is devoid of substance. The petitioners have failed to establish any *prima facie* case of illegality, arbitrariness, or violation of their fundamental or statutory rights by the respondents. Moreover, the petition suffers from inordinate delay and laches, having been filed after a lapse of more than five years from the date of the impugned office orders dated 29.12.2015 and 26.02.2016.

In the case of **Mrinmoy Maity vs. Chhanda Koley and Others, 2024**

INSC 314, the Apex Court has held as under:

“9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and laches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.

10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and

circumstances of each case, same cannot be described in a straight jacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.”

The petitioners have not provided any cogent explanation or justification for the delay, and this Court is not persuaded to condone the same. In the absence of any plausible reason for the delay, this Court is constrained to hold that the petition is barred by limitation.

Consequently, the present writ petition is dismissed, reaffirming the principle that delay defeats equity and that courts will not ordinarily grant relief to parties who sleep over their rights.

(SANDEEP MOUDGIL)
JUDGE

09.09.2025

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Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*