

Before K. Kannan, J.

AJIT SINGH,—Petitioner

versus

STATE OF PUNJAB AND OTHERS,—Respondents

C.W.P. No. 10195 of 1989

20th April, 2011

Constitution of India, 1950—Art. 226—Delay and laches—No objection to tentative seniority list—Seniority list finalized—Petitioner failing to challenge seniority list about 11 years—Repeated representations would not give a survival of cause of action—Representations are merely a manner of drawing attention of authorities for appropriate action—Representation cannot be considered on account of laches—Petition dismissed.

Held, that the petitioner had been originally appointed as a Sub Inspector, Food and Supplies and nearly after two years, he had also gained promotion in the year 1965 as Junior Analyst. The petitioner who had, therefore, taken a promotion, complained of promotion granted to yet another person, who was said to be junior and ranked below to him, a little in advance to his own promotion. It could not become subject of challenge in the year 1989 after making all the representations. Repeated representations themselves would not give a survival of cause of action when a particular right which had accrued was already denied and the person affected did not challenge such action against which a particular person had grievance subsequently. Representations are merely a manner of drawing the attention of authorities for appropriate action and if the authorities had not responded favourably, a person cannot keep on giving representations and if a response is given belatedly after 12 or 13 years again pointing out to the fact that the representation cannot be considered on account of laches, such a person cannot take that order passed as constituting a cause of action in filing writ petition.

(Para 5)

Rahul Sharma, Advocate, *for the petitioner.*

Ms. Reeta Kohli, Addl. A.G. Punjab.

Kashmir Singh, Advocate *for respondent Nos. 4 to 8.*

K. KANNAN, J.

(1) The writ petition seeks for issue of a certiorari for quashing the order rejecting a representation made by the petitioner on 31st May, 1989 where the claim of the petitioner for assigning his seniority from the date of his *ad hoc* appointment had been rejected. The petitioner had also sought for a mandamus to direct the respondents to consider the case of the petitioner for promotion as District Food and Supplies Officer on the basis of roster point applicable to his case as a person belonging to the Scheduled Caste category. The claim was that he should be treated as promoted from the date when the person next below him had been promoted.

(2) The impugned order itself makes a reference to the fact that the tentative seniority list of Sub Inspectors had been prepared and circulated on 26th October, 1969 and again on 1st November, 1976 inviting objection thereto. The impugned order reflected that there had been no objection to the tentative seniority list and it was finalized on 21st November, 1978. The order claims that the records do not indicate that there had been any appeal filed against the seniority list. The contention, therefore, was that the claim was time barred and the writ petition is not fit for consideration.

(3) The contention of the petitioner was made on the basis that he had joined as a Sub Inspector in the Food and Supplies Department on 27th March, 1962 and in view of the Rule 4.21 CSR, he had become a member of the service on date of his appointment. He claims that he is entitled to seniority with effect from his date of entry in service and not from the date when his services were regularized on 9th January, 1963. He had contended that he had not been given the benefit of *ad hoc* service and he had been made junior to Chand Ram, Inder Singh, Harbhajan Singh, Chanan Singh, Ram Naranjan Dass, Piara Singh and Ajit Singh although they had been juniors to the petitioner. Amongst them, Chand Ram who had belonged to the Scheduled Caste category, had been promoted to the post of Inspector, Food and Supplies on 11th May, 1965 while the petitioner had been promoted as Junior Analyst only on 24th November, 1965. The petitioner claimed that he had made several representations for ante dated promotion for the post of Inspector, Food and Supplies from the date when his junior had been promoted and the last of such representation was made on 25th May, 1987.

(4) In my view, the matter is not required to be dealt with on merits, for the claim is stale and severely affected by laches. It will be wrong to assume that the issue of seniority or promotion could be assailed through a writ petition only from the date when a specific order was made when a representation was purported to have been given. The cause of action invariably consists of bundle of causes and in this case, the impugned order that rejects his representation by pointing out that the claim was barred by limitation and the issue of fixation of seniority had been finally drawn up as early on 28th February, 1978 and after circulating the tentative seniority list when the petitioner had all opportunity to raise his objection. It could not, therefore, survive for consideration in the writ petition filed in the year 1989.

(5) Admittedly, the final seniority list had been drawn up where the petitioner had been placed at seniority position No. 124. This cannot be corrected through a writ petition filed in the year 1989. In **M.P. Palanisamy and others versus A. Krishan and others (1)**, the challenge to seniority list, which had been made six years after it was finalized was rejected as governed by the doctrine of laches. The Hon'ble Supreme Court termed the delay as "sinister silence" for about six years. The Hon'ble Supreme Court was considering the case of a claim for promotion when the seniority list which had been earlier released about 7 years prior to the filing of the petition had not been actually challenged and the challenge in seniority list itself came about only when a panel of seniority was prepared first time prior to filing of the petition. That was again a case where persons, who had been taken on *ad hoc* basis, were subsequently regularized in the year 1988 and after obtaining regularization waited for nearly 6 years to challenge the seniority list indirectly in the year 1994 when a promotion panel had been drawn up. This the Hon'ble Supreme Court held was not possible. In an earlier decision in **K. Abdul Majid versus State of Kerala (2)** where on a successful completion of the probationary period, the petitioner had been granted one promotion and after a lapse of 7 years, the question of legality of the initial appointment to a post which the petitioner was claiming to be lower than what was entitled to be considered for, was found to be barred by laches. In this case also, it could be noted that the petitioner had been originally appointed as a Sub Inspector, Food and Supplies and nearly after two years, he had also gained promotion in the year 1965 as Junior

(1) 2009 (6) S.C.C. 428

(2) 2001 (6) S.C.C. 292

Analyst. The petitioner who had, therefore, taken a promotion, complained of promotion granted to yet another person, who was said to be junior and ranked below to him, a little in advance to his own promotion. It could not become subject of challenge in the year 1989 after making all the representations. Repeated representations themselves would not give a survival of cause of action when a particular right which had accrued was already denied and the person affected did not challenge such action against which a particular person had grievance subsequently. Representations are merely a manner of drawing the attention of authorities for appropriate action and if the authorities had not responded favourably, a person cannot keep on giving representations and if a response is given belatedly after 12 or 13 years again pointing out to the fact that the representation cannot be considered on account of laches, such a person cannot take that order passed as constituting a cause of action in filing writ petition.

(6) The writ petition is dismissed.

R.N.R.