
(2024) 11 SHI CK 0065
In the High Court Of Himachal Pradesh
Case No : CWP No. 13533 Of 2024

Rajeev Kumar

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 26-11-2024

Acts Referred:

Citation : (2024) 11 SHI CK 0065

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Suneel Awasthi, Pushpinder Jaswal

Final Decision : Dismissed

Judgement

Ajay Mohan Goel, J

1. By way of this writ petition, the petitioner has, inter alia, prayed for the following reliefs:-

“(i) That writ in the nature of certiorari may kindly be issued to declare the action of the respondent not granting up-gradation/benefit of ACPS (4-9-14) to the petitioner may kindly be quashed and set-aside.

(ii) That writ in the nature of mandamus may kindly be issued to the respondents department directing them to grant financial/monetary benefit to the petitioner on completion of her 04-09-14 years of service on one post and one pay scale, with all consequential benefits in terms of Judgment dated 6th of July 2023 in case titled as Pankjakshi Sharma Vs. State of H.P. and Ors. CWPOA No. 5952/2020 and to revise his financial benefits accordingly.

(iii) That writ in the nature of mandamus may kindly be issued to decide the representation dated 08.08.24 i.e. Annexure P-3 in a time bound manner.”

2. The claim of the petitioner is that he was appointed as a Clerk on 12.09.1988 in the respondent-Department. Thereafter, he was promoted as Senior Clerk on

01.11.1994. The next promotion was conferred upon the petitioner against the post of Senior Assistant on 11.05.2012. Thereafter, he was promoted as Superintendent Gr.II on 04.06.2019 and Treasury Officer on 14.07.2021. He superannuated as such on 30.06.2024.

3. The contention of the petitioner is that the petitioner stagnated as from the year 1994 up to the year 2012 against the post of Senior Clerk and no benefit of ACPs was ever granted to him. Learned counsel for the petitioner further submitted that even when he was promoted against the post of Senior clerk, there was no increase in the salary and thus in fact the petitioner practically stagnated from the year 1988 up to the year 2012, when he was promoted against the post of Senior Assistant. According to the petitioner, as now this Court in CWPOA No. 5952 of 2020 has granted relief in favour of a similarly situated person, in terms of the judgment delivered on 06.07.2023, Annexure P-2, therefore, the petitioner is also entitled for the same relief of grant of ACP.

4. This Court is of the considered view that the present petition is grossly hit by delays and latches. The cause of action in fact accrued upon the petitioner each time after the lapse of the period envisaged in the ACPs when the petitioner purportedly was stagnating against a post. Meaning thereby that as from the date of his appointment against a post, when no ACPs was granted to him upon his completion of 4-9-14 years of service against that post, it are those dates, when the cause of action accrued. Admittedly, the petitioner did not approach the Court within reasonable time as from the date when the cause of action accrued or within three years as from the date when the cause of action lastly accrued when he was promoted against the post of Senior Clerk.

5. In terms of the judgments of Hon'ble Supreme Court of India, in Shiv Dass Vs. Union of India and others, 2007 (9) SCC 274 and Union of India and others Vs. Tarsem Singh, 2008 (8) SCC 648, a belated resort to an extraordinary remedy is not to be permitted by the High Court and even in service related claims, the relief of recovery etc. has to be restricted to a reasonable period of about three years, as from the date of approaching the Court.

6. The petitioner has filed this writ petition on 22.11.2024. Before filing this writ petition, the petitioner has filed the representation, which is dated 08.08.2024. Be that as it may, as from the date, when the petitioner was promoted against the post of Senior Assistant, the petitioner has taken 12 years to approach the Court. The factum of the Court having granted relief in favour of similarly situated person, can also be of no assistance to the petitioner for the reason that the incumbent in the other case was vigilant about his rights and he approached the Court in time. Simply because a judgment has been delivered in the case of a similarly situated person, the same will not cure the petition of the present petitioner, as far as the issue of delays and latches is concerned.

7. Therefore, as this Court is of the considered view that the petition is hit by delays and latches, the same is dismissed. Pending miscellaneous application(s),

if any, also stand disposed of accordingly.