

(2024) 11 SHI CK 0046
In the High Court Of Himachal Pradesh
Case No : CWP No. 11057 Of 2024

Sanjeev Sharma	Vs	APPELLANT
State Of Himachal Pradesh And Others		RESPONDENT

Date of Decision : 04-11-2024

Acts Referred:

Citation : (2024) 11 SHI CK 0046

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Aman Parth Sharma, Pushpinder Jaswal

Final Decision : Disposed Of

Judgement

Ajay Mohan Goel, J

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

"i) That impugned clause g, h and i of the ACP Scheme dated 09.08.2012 Annexure P-2 and cut-off date may kindly be quashed and set-aside being ultra vires and unconstitutional.

ii) That impugned letter dated 08.05.2023 may kindly be quashed and set aside.

iii) That respondent may kindly be directed to grant the petitioner of 4 years i.e. 06.01.2007 as per Scheme dated 09.08.2012, with all consequential benefits and re-fix the pay of the petitioner accordingly.

iv) Or in alternative, step up in term Rule 22 of the FR rules may kindly be granted to the petitioner so that pay anomaly can be removed."

2. The case of the petitioner is that the ACP, which the petitioner was entitled to, in the year 2007, was granted to him in the year 2009. It is primarily this issue, for the redressal whereof the petitioner has approached this Court.

3. When query was put to the learned counsel for the petitioner as to why the Court should intervene in the matter in view of the fact that the case is grossly hit by delays and latches because cause of action accrued in the year 2009, when as per the petitioner, the ACP was wrongly granted to him with effect from the said year rather than the year 2007, his answer was that it was only recently that the petitioner came to know of this wrong having been done to him, when he found that the pay of his junior was more than him.

4. This Court is of the considered view that this is no reason to entertain a belated writ petition. In the present case, admittedly, cause of action accrued in the year 2009, when the ACP was granted to the petitioner. The factum of the ACP having been wrongly conferred from the year 2009 ought to have been challenged by the petitioner, by way of judicial proceedings, within some reasonable time. In fact, in the year 2009, State Administrative Tribunal was functional. As the cause of action accrued to the petitioner in terms of the pleadings on 27.08.2009, the petitioner ought to have had approached the Tribunal within one year from the date of the accrual of the said cause. This right not having been exercised by the petitioner then, cannot now be sought for, by the petitioner, by filing this belated writ petition.

5. The contention of the learned counsel for the petitioner that the monetary relief can be restricted is no answer for the reason that herein there is an actual cause which as per the petitioner himself accrued in the year 2009 and in the absence of the petitioner having approached the Court against the said cause, either within the period of limitation before the learned Administrative Tribunal or within some reasonable period before the Hon'ble High Court, the petitioner cannot be allowed to raise the same belatedly.

6. Similarly, as far as the relief sought by the petitioner qua the quashing of certain clauses of the ACP Scheme Annexure P-2, dated 09.08.2012 is concerned, the Court is of the considered view that the same is also hit by delays and latches because the learned counsel for the petitioner could not justify in the course of his submissions that what took the petitioner 12 years to realize that certain clauses of the policy were ultra vires when it is not the case of the petitioner that these clauses have recently curtailed certain rights of his.

7. Lastly, the contention of the petitioner that the cause of action has now arisen with the rejection of the representation can also not come to the rescue of the petitioner for the reason that a belated representation rejected by the Authorities cannot confer a fresh cause of action, so as to undo the long delay of almost 15 years in filing of the petition.

8. In the light of the above observations, this writ petition is dismissed on the ground of delays and latches. Pending miscellaneous application(s), if any, also stand disposed of accordingly.