

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP(C) No. 460/2023

**Mohan Lal Sharma
S/O Sh. Gopi Nath
R/O H.No.F-659, Bharat Nagar,
Rehari Colony, Jammu.**

....Petitioner(s)/Appellant(s)

Through:- Mr. M. K. Raina, Advocate

V/s

- 1. Union Territory of Jammu & Kashmir through
Commissioner/Secretary, Tourism Department
Civil Secretariat, Srinagar/Jammu 180001.**
- 2. The Director, Tourism Department, Tourist Centre,
Jammu- 180001.**
- 3. Managing Director, Tourism Development Corporation,
Tourist Centre, Jammu-180001.**
- 4. Accountant General, Jammu & Kashmir Union Territory,
Jammu.**

.....Respondent(s)

Through:- Ms. Sagira Jaffer, Advocate vice
Mrs. Monika Kohli, Sr. AAG
Mr. Ajaz Ahmed, Advocate

CORAM :

**HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL, JUDGE
JUDGMENT**

1. The present writ petition has been filed by the petitioner under Article 226 of the Constitution of India, seeking the following reliefs:—”

(i) “Writ of Certiorari quashing the order dated 15.07.2019 passed by the respondents whereby the claim of petitioner with respect to release of pensionary benefits in his favour has been rejected;

(ii) Writ of Mandamus commanding the respondents to treat the petitioner as Government employee and entitled to receive all pensionary and time to time other benefits released in favour of other Government employees on the analogy of the similarly situated employees of JKI Limited and to extend the benefits of Judgment dated 12.03.2009 passed by this Hon'ble Court in a batch of writ petition the lead case being SWP No. 1250/2002 titled J&K Industries Employees Association V/S State of J&K & Others read with Judgment dated 31.07.2018 passed by this Hon'ble Court in SWP No. 1269/2016 titled All J&K State Forest Corporation Employees V/S State of J&K & Others;

(iii) Writ of Mandamus commanding the respondents to decide the representation of the petitioner dated 31.05.2018 by passing as peaking/reasoned order in light of Judgments dated 12.03.2009 and 31.07.2018 referred hereinabove.”



2. The petitioner was initially appointed in the Directorate of Tourism, Govt. of J&K in 1968. The Govt. of J&K established JKTDC on 13.02.1970 as a fully owned Corporation and all the assets and the employees of the Department of Tourism were shifted/handed over to the JKTDC. The employees of erstwhile Tourism Department were treated as employees of the Corporation by the JKTDC. The petitioner was also shifted to JKTDC. The petitioner was given various promotions and he retired from the service on 30.11.2002.

3. Learned counsel for the petitioner submits that since the petitioner has rendered his services with fullest zeal and enthusiasm to the Directorate of Tourism, Government of J&K and then to the JKTDC as shown from his continuous progress as well as from promotions from time to time but after superannuation he was not given the retiral benefits as JKTDC treated him as

the employee of Corporation not realizing that he was the employee of the Tourism Department prior to the establishment of the Corporation, as such, was entitled for pensionary benefits along with 7th pay commission and other benefits as available to a civil servant.

4. It is stated that hat a similar writ petition bearing SWP No.1269/2016 titled ***All J&K State Forest Corporation Employees V/s State of J&K & Others*** was preferred before this Court by the Employees of the J&K State Forest Corporation and this Court vide Judgment dated 31.07.2018 directed the respondents to give all the benefits as have been sought for by the petitioners in the writ petition on the same analogy as has been/will be adopted by the respondent-State quo the writ petitioners of SWP No.1250/2002 titled ***J&K Industries Employees Association V/S State & others***. It is submitted tha tsince the petitioner is also a similarly situated employee to the writ petitioners of SWP Nos .1250/2002 and 1269/2016, thus, same treatment be extended to the petitioner as well. A copy of the judgment dated 31.07.2018 passed in SWP No.1269/2016 has been annexed with the instant petition.

5. Respondents have filed objections, stating therein that the case of the petitioner was examined in light of directions contained in Order/judgment passed in SWP No. 2261/2018 and was found to be devoid of any merit and, accordingly, the case was rejected vide order dated 29.11.2019. It is stated that petitioner had retired from services of Corporation in 2002 and at the time of retirement all retrial benefits were released in his

favour. It is further stated that the petitioner retired from the Corporation service in 2002 from the post of Dy. Manager (Operations) and after completing 32 years of service all the service entries of the petitioner has been recorded the service book.

6. A preliminary objection has been raised by the respondents that the instant petition is barred by laches as there is huge delay and laches which has not been explained. The petitioner has retired from service on 30.11.2002 and the present petition has been filed after lapse of more than 22 years, thus petition is required to be dismissed.

7. I have heard learned counsel for the parties and perused the record of the case.

8. It is well established principle of law that delay defeats equity. Exercise of discretion by High Court does not mean to assist a tardy and indolent or acquiescent and lethargic. If inordinate delay is not satisfactorily explained, intervention and grant of relief in exercise of writ jurisdiction can be declined. Belated resort to extraordinary remedy is not to be ordinarily permitted by the High Court as it is likely to cause confusion and public inconvenience and bring new injustices and if writ jurisdiction is exercised after unreasonable delay, it may have effect of inflicting not only hardship and inconvenience but also injustice on third parties.

9. The Supreme Court in the case of ***Karnataka Power Corpn. Ltd. vs. K. Thangappan*** reported in (2006) 4 SCC 322 has held as under :-

“6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in *Durga Prashad v. Chief Controller of Imports and Exports*. Of course, the discretion has to be exercised judicially and reasonably.

7. What was stated in this regard by Sir Barnes Peacock in *Lindsay Petroleum Co. v. Prosper Armstrong Hurd* (PC at p. 239) was approved by this Court in *Moon Mills Ltd. v. M.R. Meher* and *Maharashtra SRTC v. Shri Balwant Regular Motor Service*. Sir Barnes had stated:

“Now, the doctrine of laches in courts of equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy either because the party has, by his conduct done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitation, the validity of that defence must be tried upon principles substantially equitable. Two circumstances always important in such cases are, the length of the delay and the nature of the acts done during the interval which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as it relates to the remedy.”

8. It would be appropriate to note certain decisions of this Court in which this aspect has been dealt with in relation to Article 32 of the Constitution. It is apparent that what has been stated as regards that article would apply, a fortiori, to Article 226. It was observed in *Rabindranath Bose v. Union of India* that no relief can be given to the petitioner who without any reasonable explanation approaches this Court under Article 32 after inordinate delay. It was stated that though Article 32 is itself a guaranteed right, it does not follow from this that it was the intention of the Constitution-makers that this Court should disregard all principles and grant relief in petitions filed after inordinate delay.

9. It was stated in *State of M.P. v. Nandlal Jaiswal* that the High Court in 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 and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring, in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction.”

10. In the case of ***M.P. Ram Mohan Raja Vs. State of T.N.*** reported in ***(2007) 9 SCC 78***, it has been held by the Supreme Court: -

“11. So far as the question of delay is concerned, no hard-and fast rule can be laid down and it will depend on the facts of each case. In the present case, the facts stare at the face of it that on 8.10.1996 an order was passed by the Collector in pursuance of the order passed by the High Court, rejecting the application of the writ petitioner for consideration of the grant of mining lease. The writ petitioner sat tight over the matter and did not challenge the same up to 2003. This on the face of it appears to be very serious. A person who can sit tight for such a long time for no justifiable reason, cannot be given any benefit.”

11. In ***Shiv Dass vs. Union of India*** reported in ***(2007) 9 SCC 274*** the Supreme Court has held as under: -

“6. Normally, in the case of belated approach writ petition has to be dismissed. Delay or laches is one of the factors to be borne in mind by the High Courts when they exercise their discretionary powers under Article 226 of the Constitution of India. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in *Durga Prashad v. Chief Controller of Imports and Exports*. Of course, the discretion has to be exercised judicially and reasonably.

7. What was stated in this regard by Sir Barnes Peacock in *Lindsay Petroleum Co. v. Prosper Armstrong Hurd*, PC at p. 239 was approved by this Court in *Moon Mills Ltd. v. M.R. Meher* and *Maharashtra SRTC v. Balwant Regular Motor Service*. Sir Barnes had stated:

“Now the doctrine of laches in courts of equity is not an arbitrary or technical doctrine. Where it would be practically unjust to give a remedy either because the party has, by his conduct done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitation, the validity of that defence must be tried upon principles substantially equitable. Two circumstances always important in such cases are, the length of the delay and the nature of the acts done during the interval which might affect either

party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy.”

8. It was stated in *State of M.P. v. Nandlal Jaiswal* that the High Court in 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 and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction.”

12. The Supreme Court in the case of ***Nadia Distt. Primary School Council Vs. Sristidhar Biswar, (2007) 12 SCC 779*** has held as under:

“11. In the present case, the panel was prepared in 1980 and the petitioners approached the court in 1989 after the decision in *Dibakar Pal*. Such persons should not be given any benefit by the court when they allowed more than nine years to elapse. Delay is very significant in matters of granting relief and courts cannot come to the rescue of the persons who are not vigilant of their rights. Therefore, the view taken by the High Court condoning the delay of nine years cannot be countenanced.”

13. The Supreme Court in ***U.P. Jal Nigam Vs. Jaswant Singh*** reported in ***(2006) 11 SCC 464*** has held as under :-

“12. The statement of law has also been summarised in Halsbury’s Laws of England, para 911, p. 395 as follows: “In determining whether there has been such delay as to amount to laches, the chief points to be considered are:

(i) acquiescence on the claimant’s part; and (ii) any change of position that has occurred on the defendant’s part. Acquiescence in this sense does not mean standing by while the violation of a right is in progress, but assent after the violation has been completed and the claimant has become aware of it. It is unjust to give the claimant a remedy where, by his conduct, he has done that which might fairly be regarded as equivalent to a waiver of it; or where by his conduct and neglect, though not waiving the remedy, he has put the other party in a position in which it would not be reasonable to place him if the remedy were afterwards to be asserted. In such cases lapse of time and delay are most material. Upon these considerations rests the doctrine of laches.”

14. In ***Jagdish Lal Vs. State of Haryana*** reported in ***(1997) 6 SCC 538*** the Supreme Court has held as under:

“18. That apart, as this Court has repeatedly held, the delay disentitles the party to the discretionary relief under Article 226 or Article 32 of the Constitution.”

15. The Supreme Court in *NDMC vs. Pan Singh* reported in (2007) 9 SCC

278 has held as under:-

“16. There is another aspect of the matter which cannot be lost sight of. The 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. (See *Govt. of W.B. v. Tarun K. Roy*, *U.P. Jal Nigam v. Jaswant Singh* and *Karnataka Power Corpn. Ltd. v. K. Thangappan*.)

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. (See *Lipton India Ltd. v. Union of India* and *M.R. Gupta v. Union of India*.)

16. In *Shiv Dass v. Union of India* this Court held: (SCC p. 277, paras 9-10)

“9. It has been pointed out by this Court in a number of cases that representations would not be adequate explanation to take care of delay. This was first stated in *K.V. Rajalakshmi Setty v. State of Mysore*. There is a limit to the time which can be considered reasonable for making government had turned down one representation the making of another representation on similar lines will not explain the delay. In *State of Orissa v. Pyarimohan Samantaray* making of repeated representations was not regarded as satisfactory explanation of the delay. In that case the petition had been dismissed for delay alone. (See also *State of Orissa v. Arun Kumar Patnaik*.)

10. In the case of pension the cause of action actually continues from month to month. That, however, cannot be a ground to overlook delay in filing the petition. It would depend upon the fact of each case. If petition is filed beyond a reasonable period say three years normally the Court would reject the same or restrict the relief which could be granted to a reasonable period of about three years. The High Court did not examine whether on merit the appellant had a case. If on merits it would have found that there was no scope for interference, it would have dismissed the writ petition on that score alone.”

19. We, therefore, are of the opinion that it was not a fit case where the High Court should have exercised its discretionary jurisdiction in favour of the respondents herein.”

16. In ***State of Orissa v. Pyarimohan Amantaray*** reported in (1977) 3 SCC

396 it has been held by the Supreme Court that:

“6. It would thus appear that there is justification for the argument of the Solicitor-General that even though a cause of action arose to the petitioner as far back as 1962, on the rejection of his representation on November 9, 1962, he allowed some eleven years to go by before filing the writ petition. There is no satisfactory explanation of the inordinate delay for, as has been held by this Court in *Rabindra Nath Bose v. Union of India* the making of repeated representations, after the rejection of one representation, could not be held to be a satisfactory explanation of the delay. The fact therefore remains that the petitioner allowed some years to go by before making a petition for the redress of his grievances. In the meantime a number of other appointments were also made to the Indian Administrative Service by promotion from the State Civil Service, some of the officers received promotions to higher posts in that service and may even have retired. Those who continued to serve could justifiably think that as there was no challenge to their appointments within the period prescribed for a suit, they could look forward to further promotion and higher terminal benefits on retirement. The High Court therefore erred in rejecting the argument that the writ petition should be dismissed because of the inordinate and unexplained delay even though it was “strenuously” urged for its consideration on behalf of the Government of India.”

17. The Supreme Court in the case of ***P. S. Sadasivaswamy v. State of T.N.***, reported in (1975) 1 SCC 152 has held as under : -

“2. ... A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the courts to exercise their powers under Article 226 nor is it that there can never be a case where the courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters.”

18. The Supreme Court in the case of ***Administrator of Union Territory of Daman and Diu and others v. R.D. Valand*** reported in 1995 Supp (4) 593 has held as under: -

“4. We are of the view that the Tribunal was not justified in interfering with the stale claim of the respondent. He was promoted to the post of Junior Engineer in the year 1979 with effect from 28-9-1972. A cause of action, if any, had arisen to him at that time. He slept over the matter till 1985 when he made representation to the Administration. The said representation was rejected on 8-10-1986. Thereafter for four years the respondent did not approach any court and finally he filed the present application before the Tribunal in March, 1990. In the facts and circumstances of this case, the tribunal was not justified in putting the clock back by more than 15 years. The Tribunal fell into patent error in brushing aside the question of limitation by observing that the respondent has been making representations from time to time and as such the limitation would not come in his way.”

19. It is well established principle of law that in old and stale cases the court should not even pass an order directing the respondents to decide the representation and even if any representation is decided on such direction, still the said order will not give rise to any new cause of action.

20. The Supreme Court in the case of ***State of Uttaranchal v. Shiv Charan Singh Bhandari*** reported in **(2013) 12 SCC 179** has held as under :

“19. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix. Similarly, a mere submission of representation to the competent authority does not arrest time.

* * * *

28. Remaining oblivious to the factum of delay and laches and granting relief is contrary to all settled principles and even would not remotely attract the concept of discretion. We may hasten to add that the same may not be applicable in all circumstances where certain categories of fundamental rights are infringed. But, a stale claim of getting promotional benefits definitely should not have been entertained by the Tribunal and accepted by the High Court.”

21. The Supreme Court in the case of ***C. Jacob v. Director of Geology and Mining*** reported in **(2008) 10 SCC 115** has held as under: -

“10. 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.”

22. In the case of ***Union of India v. M.K. Sarkar*** reported in ***(2010) 2 SCC***

59 it has been held as under :

“15. When a belated representation in regard to a ‘stale’ or ‘dead’ issue/ dispute is considered and decided, in compliance with a direction by the court/ tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the ‘dead’ issue or time-barred dispute. The issue of limitation or delay and laches should be considered with -reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court’s direction. Neither a court’s direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches.”

23. The Supreme Court in the case of ***State of T.N. v. Seshachalam*** reported in ***(2007) 10 SCC 137*** has held as under :

“16. ... 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.”

24. The Supreme Court in the case of ***Union of India and others v. Chaman Rana*** reported in ***(2018) 5 SCC 798*** has held as under: -

“10. Mere repeated filing of representations could not be sufficient explanation for delay in approaching the Court for grant of relief, was considered in *Gandhinagar Motor Transport Society v. Kasbekar* [*Gandhinagar Motor Transport Society v. Kasbekar*, 1953 SCC OnLine Bom 64 : AIR 1954 Bom 202] , by Chagla, C.J. observing as follows: (SCC OnLine Bom : AIR p. 203, para 2)

“2. ... Now, we have had occasion to point out that the only delay which this Court will excuse in presenting a petition is the delay which is caused by the petitioner pursuing a legal remedy which is given to him. In this particular case the petitioner did not pursue a legal remedy. The remedy he pursued was extra-legal or extra-judicial. Once the final decision of the Government is given, a representation is merely a n appeal for mercy or indulgence, but it is not pursuing a remedy which the law gave to the petitioner. ...”.

25. In the case of belated approach writ petition has to be dismissed. Delay or laches is one of the factors to be borne in mind by the Courts while

exercising discretionary powers under Article 226 of the Constitution of India. In an appropriate case the Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of petitioner to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court. Of course, the discretion has to be exercised judicially and reasonably.

26. While reiterating the aspect of delay and laches, it has been held that such delay and laches would disentitle the discretionary relief being granted.

The Supreme Court in ***Chennai Metropolitan Water Supply & Sewerage Board and others vs. T. T. Murali Babu***, reported in (2014) 4 SCC 108 has held: -

“16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant -- a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.”

27. In ***State of West Bengal v. Debabrata Tiwari*** and others reported as ***2023 SCC Online SC 219***, the Supreme Court made following observations:

“36. Laches or undue delay, the blameworthy conduct of a person in approaching a Court of Equity in England for obtaining

discretionary relief which disentitled him for grant of such relief was explained succinctly by Sir Barnes Peacock, in *Lindsay Petroleum Co. v. Prosper Armstrong Hurd* [(1874) LR 5 PC 221] as under :

“Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation, in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as it relates to the remedy.”

28. The pleadings of the petitioner, as mentioned herein-supra, provide no justification for the delay in approaching this Court with the instant writ petition. The petitioner has not been able to show or give any reasons for such an inordinate delay in approaching this Court against the order dated 17.07.2019, whereby his claim for release of pensionary benefits has been rejected. In such circumstances, impugned order does not call for any interference.

29. In view of above, writ petition is without any merit and is, accordingly, dismissed with connected CM(s). Interim direction, if any, shall stand vacated.

(Vinod Chatterji Koul)
Judge

JAMMU
09.10.2025
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