

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 139

Case No. : C. W. P.No. 11270 of 2015

Date of Decision : May 28, 2015

Veena Bakshi Petitioner

Vs.

State of Punjab and another Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Om Pal Sharma, Advocate
for the petitioner.

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DEEPAK SIBAL, J. :

Through the present petition, the petitioner seeks a direction to the respondent Punjab State Electricity Board (now Punjab State Power Corporation Limited) (hereinafter referred to as – the Corporation) to grant to the petitioner the time bound pay scale w.e.f. 17.07.2001 instead of 17.07.2002.

Through order dated 19.05.2006 (Annexure P-1), the petitioner was granted the benefit of time bound promotional scales w.e.f. 17.07.2002. Through the present petition, the petitioner prays for the grant of time bound promotional scales w.e.f. 17.07.2001 instead of 17.07.2002.

The cause of action accrued to the petitioner on 19.05.2006 when the time bound promotional scales were, according to the petitioner, wrongly granted w.e.f. 17.07.2002 instead of 17.07.2001. The present writ petition has been filed after over nine years with no explanation for the delay whatsoever. In view of inordinate delay, which has not been explained, the present writ petition is ordered to be dismissed on the ground of delay and laches.

The above view of mine finds support from a judgment of Apex Court in **Chennai Metropolitan Water Supply and Sewerage Board and others vs. T. T. Murali Babu** reported as **2014 (2) S.C.T. 193**, wherein it has been held as under :-

*“13. First, we shall deal with the facet of delay. In **Maharashtra State Road Transport Corporation v. Balwant Regular Motor Service, Amravati and others** [AIR 1969 SC 329] the Court referred to the principle that has been stated by Sir Barnes Peacock in **Lindsay Petroleum Co. v.***

*Prosper Armstrong Hurd, Abram Farewall, and John Kemp*⁷, which is as follows : -

“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 relates to the remedy.”

14. In State of Maharashtra v. Digambar [1995 (4) SCC 683], while dealing with exercise of power of the High Court under Article 226 of the Constitution, the Court observed that power of the High Court to be exercised under Article 226 of the Constitution, if is discretionary, its exercise must be judicious and reasonable, admits of no controversy. It is for that reason, a person's entitlement for relief from a High Court under Article 226 of the

Constitution, be it against the State or anybody else, even if is founded on the allegation of infringement of his legal right, has to necessarily depend upon unblameworthy conduct of the person seeking relief, and the court refuses to grant the discretionary relief to such person in exercise of such power, when he approaches it with unclean hands or blameworthy conduct.

**15. In State of M.P. and others etc.
etc. v. Nandlal Jaiswal and others etc. etc.**

[AIR 1987 SC 251] the Court observed that it is well settled that power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. It has been further stated therein that if there is inordinate delay on the part of the

petitioner in filing a petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. Emphasis was laid on the principle of delay and laches stating that resort to the extraordinary remedy under the writ jurisdiction at a belated stage is likely to cause confusion and public inconvenience and bring in injustice.

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 scrutinize 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. In the case at hand, though there has been four years’ delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That

apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons – who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone

*the writ court should have thrown the
petition overboard at the very threshold.”*

In view of the above, the present writ petition is ordered to be
dismissed on the ground of delay and laches, with no order as to costs.

**(DEEPAK SIBAL)
JUDGE**

May 28, 2015
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