

**HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA No.1295 of 2014 (O&M)

Date of Decision: 24.03.2015

Sher Singh

... Appellant

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE P.B. BAJANTHRI

Present: Mr. Subhash Aggarwal, Advocate for the appellant

Mr. Aman Bahri, Addl. AG Punjab

SURYA KANT, J. (Oral)

(1) This Letters Patent Appeal impugns the order dated 04.07.2014 whereby learned Single Judge has dismissed the appellant's writ petition on the ground of inordinate delay and laches as the claim for the grant of higher pay scale was raised after 36 years.

(2) The appellant joined the Education Department as a Teacher on 25.07.1970. He retired on attaining the age of superannuation on 31.08.2007. He filed the writ petition in the year 2014 claiming that on the basis of higher qualifications possessed by him, he was entitled to higher pay scale in the year 1978 hence his pay was required to be re-fixed from the date the mistake crept in, followed by consequential benefits. Reliance is placed on a decision of the learned Single Judge dated 15.04.2009 passed in the case of Baldev Raj Mittal & Ors. vs. State of Punjab

& Ors. (CWP No.3931 of 1992). The learned Single Judge followed the decision of Hon'ble Supreme Court in **State of Punjab & Anr. v. Kirpal Singh Bhatia & Ors. (1975) 4 SCC 740.**

(3) No exception can be taken to the order passed by learned Single Judge in the instant case. The appellant has miserably failed to explain the prolonged silence in approaching the Court. It was not a case of socially or economically backward litigant who for want of sufficient means could not have access to justice. The appellant was in Government service; was a teacher who shaped the future generations. We have no reason to doubt that he was fully aware of his perceived rights. He allowed the grass to grow under his feet and is single-handedly responsible for getting his writ petition dismissed on the ground of delay and laches.

(4) That apart, the claim raised by the appellant, even on merits also, is totally frivolous and misdirected. With utmost respect at our command, the view taken by the learned Single Judge in his order dated 15.04.2009 in Baldev Raj Mittal's case is totally erroneous. In that case, the State counsel failed to point out that the State Legislature with a view to curb the flood of litigation initiated by Teachers on the strength of old and obsolete instructions dated 23.07.1957 or 19.02.1979 has enacted Punjab Pay Scales of Teachers Act, 2004 retrospectively w.e.f. 01.01.1986 and no claim based upon the above-stated instructions could be

entertained after the Act had come into force. We thus disapprove the view taken in Baldev Raj Mittal's case (supra).

(5) No case to interfere with the order passed by the learned Single Judge is made out.

(6) Dismissed.

(Surya Kant)
Judge

24.03.2015
vishal shonkar

(P.B. Bajanthri)
Judge