

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.10057 of 2016
Date of decision: 20.5.2016

Harbans Singh and others...Petitioners

Versus

State of Punjab and others...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Abhishek Arora, Advocate for
Mr. Vivek Baghla, Advocate for the petitioners.

G.S.SANDHAWALIA, J. (Oral)

The petitioners seek the financial benefit on account of performing their duties of higher responsibilities by officiating/holding Current Duty Charge on the higher post.

A perusal of the chart with regard to period of services of the petitioners would go on to show that they retired way back between the years 2001 to 2006. The chart reads as under:-

Sr. No.	Name/Father's name	As	Joining	Retirement	
1.	Harbans Singh s/o Gurnam Singh	C.D.C. Charge of SDO	12.6.70 as SO/JE	31.10.2006 as SDO with CDC charge	Canal Lining Arrear Division Patiala
2.	Rajinder Singh Virdee s/o Sohan Singh	ADE/SDO	3.1.1971 as Sectional Officer (Now JE)	31.10.2001 as SDO with CDC charge	Director Hydel Design Organization
3.	Gopal Krishan Verma s/o Kishori Lal	C.D.C. Charge of SDO	6.1.1992 as Sectional Officer (Now JE)	31.3.2001 as Extra Assistant Engineer with CDC charge of SDO	SYL Canal Project.
4.	Amrik Singh s/o Ajaib Singh	C.D.C. Charge of SDO	27.10.1964	30.6.2001 J.E. with CDC charge of SDO	Director Hydel Design Organization
5.	Rajinder Singh s/o Sohan Singh	C.D.C. Charge of SDO	4.9.1963	31.12.000 JE with CDC charge of SDO	Area Canal Line Division, Tarn Taran at Amritsar.
6.	Bhupinder Singh s/o Sukhdev Singh	CDC charge of SDO	31.1.1965	30.6.2001	Drainage construction division, Amritsar.

PRADEEP KUMAR ARORA
2016.05.22
I attest to the accuracy and integrity of this document
Punjab and Haryana High Court,
Chandigarh

The claim thus for the financial benefits is prior to that point of time. Nothing is shown to this Court that during their period of service the petitioners represented for the said claim. The prayer now made for decision of the legal notice cannot be accepted. The petitioners have slept over their rights for more than a decade for their one time benefit. Thus, they cannot be allowed now to lay claim at this belated stage.

It is settled principle that law protects the ones who are vigilant and do not sleep over their rights. The Hon'ble Apex Court in **Pundlik Jalam Patil (D) by LRs. vs. Exe. Eng. Jalgaon Medium Project and another, 2009 (1) PLR 128** has observed as under:-

“14.....The applicant having set the machinery in motion cannot abandon it to resume it after number of years because the authority with whom it had entered into correspondence did not heed to its request to file appeals. The question is : Can the respondent/applicant in this case take advantage of its negligence, after lapse of number of years, of the decision of Government? It knew the exact grounds on which appeals could have been preferred. The law will presume that it knew of its right to file appeal against the award. Everybody is presumed to know law. It was its duty to prefer appeals before the court for consideration which it did not. There is no explanation forthcoming in this regard. The evidence on record suggest neglect of its own right for long time in preferring appeals. The court cannot enquire into belated and stale claims on the ground of equity. Delay defeats equity. The court helps those who are vigilant and 'do not slumber over their rights.'

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18. Shri Mohta, learned senior counsel relying on the decision of this court in [N. Balakrishnan vs. M. Krishnamurthy](#) [(1998) 7 SCC 123] submitted that length of delay is no matter, acceptability of explanation is the only criterion. It was submitted that if the explanation offered does not smack of mala fides or it is not put forth as part of dilatory tactics the court must show utmost consideration to the suitor. The very said decision upon which reliance has been placed holds that the law of limitation fixes a life span for every legal remedy for the redress of the legal injury suffered. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of Limitation is thus founded on public policy. The decision does not lay down that a lethargic litigant can leisurely choose his own time in preferring appeal or application as the case may be. On the other hand, in the said judgment it is said that court should not forget the opposite party altogether. It is

observed:

It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.”

The present petition is apparently barred by limitation and hit by the principle of delay and laches and therefore, this Court feels that it is not a fit case where jurisdiction under Article 226 of the Constitution of India can be exercised.

In case the petitioners so desire, it is open to them to agitate for their rights before an appropriate forum.

Accordingly, the present writ petition is dismissed.

May 20, 2016
Pka

(G.S.SANDHAWALIA)
Judge