

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.2075 of 2016
Decided on : 02.02.2016

Gurmeet Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

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

Present : Mr.H.S.Batth, Advocate, for the petitioner.

G.S. Sandhawalia , J. (Oral)

The petitioner seeks a direction for being recalled on active duty by taking the plea that similarly situated volunteers enrolled by the Punjab Home Guards, have been called back.

It is the petitioner's own case that he could not report for duty w.e.f. 30.09.1997 due to serious family and personal problems, which were beyond his control. Almost a period of 2 decades have gone by. The petitioner seeks to revive a dead case which cannot be permitted. In such circumstances, the bar of limitation stares him on the face. It is settled principle that the right to claim any legitimate right, is taken away on such account and, therefore, this Court would be loath to issue any writ of mandamus or direction for the grant of reconsideration by the authorities.

The Apex Court in **State of Karnataka Vs. S.M.Kotrayya (1996) 6 SCC 267**, while dealing with the issue of claim of recovery, held that merely because similarly situated persons had been successful in raising challenge to the order of

recovery made in the year 1984-86, others could not file applications in the year 1989 and claim the same relief. The Court refused to extend the benefit of the judgment passed in respect of the other similarly situated persons.

In ***U.P.Jal Nigam Vs. Jaswant Singh (2006) 11 SCC 464***, the issue of the delay amounting to the laches and acquiescence, on the part of the petitioners, was discussed and it was held that it would be unjust to give the claimant a remedy where he has waived his right. Relevant portion of the judgment reads as under:

“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 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.”

In ***Pundlik Jalam Patil (D) by LRs Vs. Executive Engineer, Jalgaon Medium Project & another (2008) 17 SCC***

448, it was held that the law is for the vigilant and not for those who sleep over their rights and where the person has failed to approach the Court within reasonable time, he is not to be given any further liberty. Relevant observations read as under:

"22. Basically the laws of Limitation are founded on public policy. In Halsbury's Laws of England, 4th Ed., Vol.28,p.266,para 605, the policy of the [Limitation Acts](#) is laid down as follows:

"The courts have expressed at least three different reasons supporting the existence of statutes of limitation, namely,(i) that long dormant claims have more of cruelty than justice in them, (ii) that a defendant might have lost the evidence to dispute the stated claim, (iii) that persons with good causes of actions should pursue them with reasonable diligence."

23. Statutes of limitation are sometimes described as 'statutes of peace'. An unlimited and perpetual threat of limitation creates insecurity and uncertainty; some kind of limitation is essential for public order. This court in [Rajender Singh and others vs. Santa Singh and others](#) [(1973) 2 SCC 705] has observed :

"the object of law of Limitation is to prevent disturbance and deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches".

[In Motichand vs. Munshi](#) [(1969) 2 SCR 824], this court observed that this principle is based on the maxim "interest republicae ut sit finis litum, that is, the interest of the State requires that there should be end to litigation but at the same time law of Limitation are a means to ensuring private justice suppressing fraud and perjury, quickening

diligence and preventing oppression.

It needs no restatement at our hands that the object for fixing time limit for litigation is based on public policy fixing a life span for legal remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. Salmond in his jurisprudence states that the laws come to the assistance of the vigilant and not of the sleepy.”

In **State of Uttar Pradesh & others Vs. Arvind Kumar Srivastava & others 2015 (1) SCC 347**, the benefit given to such fence sitters by the Tribunal and the High Court, which was on account of the judgment which had been rendered in favour of similarly situated persons, was set aside by invoking the principle of delay and laches and holding that the Court will not come to the rescue of those who are guilty of waiver. Relevant observation reads as under:

“23. The legal principles which emerge from the reading of the aforesaid judgments, cited both by the appellants as well as the respondents, can be summed up as under:

(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to

be treated differently.

(2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.”

In such circumstances, this Court does not feel it necessary to exercise its jurisdiction under Article 226 of the Constitution of India. Consequently, the present writ petition is dismissed in limine.

FEBRUARY 02, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE