

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.645 of 2014 (O&M)

Date of Decision: May 11, 2016

Ram Shah and others

.....Appellant

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE A.B.CHAUDHARI.

Present: Mr.H.K.Brinda, Advocate, for the appellant.
Mr.K.K.Gupta, Additional AG, Punjab.

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1. *Whether Reporters of Local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Surya Kant, J. (Oral)

This letters patent appeal is directed against the judgment dated 10.03.2014 whereby the learned Single Judge segregated the writ-petitioners in three groups, namely, (i) those who are still in service; (ii) those who approached the Court after inordinate delay and laches, and (iii) those who approached the Court within a reasonable time. The writ-petitions qua those who approached the Court after inordinate delay and laches, have been dismissed whereas the respondents have been called upon qua the others. The petitioners whose writ petitions have been dismissed for inordinate delay and laches, are in appeal before us.

The joint writ petition was filed by in-service/retired Constables of Punjab Police seeking a direction for the grant of ACP scale as per the Government Circular dated

25.09.1998. They further relied upon a decision of this Court in LPA No.2003 of 2012 (State of Punjab and others versus Constable Amar Nath No.105/HPR (retired), dated 05.02.2013, whereby identical relief granted to the Constables by learned Single Judge was upheld.

Learned Single Judge has referred to the case-law and well settled principles to hold that though the writ proceedings are not regulated by the law of limitation but those who wish to invoke the equitable and discretionary jurisdiction must approach the Court within a reasonable period.

No exception can be taken to the view formed by the learned Single Judge and in a given case the delay and laches can have fatal effect on the fate of a litigant even if he is entitled to the relief on merits. However, the Constitutional Courts possess variety of tools to re-modulate the nature of relief and balance the equities so that a person who went into slumber is not unduly enriched but at the same time, his rights within the wider ambit of Articles 14 & 16 of the Constitution are also protected. What is the actual effect of the order passed by the learned Single Judge? The answer is that those who are juniors and are either still in service or have recently retired, will get the higher retiral benefits and those who are older in age and were seniors would be deprived of such benefits. In such a situation, we are of the considered view that the retirees who approached the Court at belatedly can be suitably penalized by depriving them payment of arrears etc.

It would not only eliminate the element of discrimination but will further ensure that no undue advantage is given to those who slept over their rights.

We, thus allow the appeal; modify the order passed by the learned Single Judge and issue notice of motion in the writ-petition qua the appellants as well. It is made clear that if the claim of the appellants or those who approached the Court after unexplained and unreasonable delay, is accepted by the Court, such relief shall be granted prospectively only, namely, from the date they have approached the Court though they might be entitled to notional fixation of pay and other retiral benefits without payment of arrears.

Ordered accordingly.

Dasti.

[SURYA KANT]
JUDGE

May 11, 2016
mohinder

[A.B.CHAUDHARI]
JUDGE