

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.531 of 2016 (O&M)

Date of Decision: 04.08.2016

Bachan Singh

... Appellant

VS.

State of Punjab & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

- | | |
|--|----------|
| 1. Whether speaking/reasoned? | Yes / No |
| 2. Whether reportable? | Yes / No |
| 3. Whether Reporters of local papers may be allowed to see the judgment? | Yes / No |
| 4. To be referred to the Reporters or not? | Yes / No |
| 5. Whether the judgment should be reported in the Digest? | Yes / No |

Present: Mr. ID Singla, Advocate for the appellant

Mr. Rajesh Bhardwaj, Addl. AG Punjab

SURYA KANT, J. (Oral)

(1) This order shall dispose of LPA Nos.531, 532, 534, 541, 542, 545, 546, 547, 548, 557, 637, 639, 719, 727, 728, 729, 730, 731, 758, 785, 1365, 1369 & 1370 of 2016 as all the above-captioned appeals are directed against the common order of learned Single Judge dated 26.02.2016, whereby writ petitions filed by the appellants have been dismissed, on the ground of delay and laches.

(2) Learned Single Judge has relied upon a previous decision rendered in the case of (*Ram Shah and Ors. vs. State of Punjab & Ors.* (CWP No.3946 of 2014 decided on 10.03.2014), in support of the order under challenge.

(3) It is undeniable that the decision of learned Single Judge in *Ram Shah's* case (supra) was challenged before this Court in LPA No.645 of 2014 and the Division Bench to which one of us (Surya Kant, J) was a member, allowed the appeal in part and after modifying the order of learned

Single Judge, the writ petitions which were dismissed on the ground of delay and laches, were ordered to be heard along with other bunch of writ petitions in which similar relief had been prayed for.

(4) Learned counsel for the appellants states that the writ petitions along with which Ram Shah's case was ordered to be heard are now listed on 17.01.2017.

(5) In Ram Shah's case, this Court viewed as follows:-

“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.”

(6) Following the view quoted above, the instant appeals are also allowed; the order of learned Single Judge is set aside and the writ petitions are ordered to be heard on merits on 17.01.2017 along with the above-cited case. However, it shall be the discretion of learned Single Judge to modulate the relief keeping in view all the relevant factors.

(7) The parties are directed to appear before the learned Single Judge on 17.07.2017.

**(Surya Kant)
Judge**

04.08.2016
vishal shonkar

**(Sudip Ahluwalia)
Judge**