

**136 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.16779 of 2017

Date of decision: July 31, 2017

Joginder Singh

....Petitioner

Versus

Punjab State Power Corporation Ltd. and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Pawan Kumar Goklaney, Advocate
for the petitioner.

JASPAL SINGH, J.

Through the instant petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought issuance of an appropriate writ in the nature of mandamus directing the respondents to count the period of work-charge services rendered by the petitioner with the department from 27th June, 1972 to 18th May, 1977 as well as the period of adhoc services rendered by him for the period from 19th May, 1977 to 3rd January, 1980, for the purpose of pensionary benefits with all consequential benefits.

At the very outset, it has emerged that though, petitioner stood retired from service on attaining the age of superannuation on 31st January, 2010 but after his retirement or during his service, petitioner did not put-forth any such claim by approaching either this Court or the authorities concerned which has been sought through the present petition. There is no explanation put-forth by the petitioner as to why no action was sought by him after 1980 or even after January, 2010 i.e. after his retirement.

The instant petition suffers from delay and latches vide which the relief has been claimed pertaining to the period from June, 1972 to January, 1980.

In case **Jagdish Lal v. State of Haryana, 1998(1) SCT 26 (SC) : (1997) 6 SCC 538**, the Hon'ble Apex Court observed that if a person chose to sit over the matter and woke up after the decision of Court, then such person cannot stand to benefit. In that case, it was observed as follows:-

“The delay disentitles a party to discretionary relief under Article 226 or Article 32 of the Constitution. The appellants kept sleeping over their rights for long and woke up when they had the impetus from Vir Pal Singh Chauhan case. The appellants' desperate attempt to redo the seniority is not amenable to judicial review at this belated stage.”

In another case **Union of India & others vs. C.K. Dharagupta & others, 1992(2) SCT 117 (SC) : (1997) 3 SCC 395**, it was observed as under:-

“We, however, clarify that in view of our finding that the judgment of the Tribunal in R.P. Joshi gives relief only to Joshi, the benefit of the said judgment of the Tribunal cannot be extended to any other person. The respondent C.K. Dharagupta (since retired) is seeking benefit of Joshi case. In view of our finding that the benefit of the judgment of the Tribunal dated 17.-3-1987 could only be given to Joshi and nobody else, even Dharagupta is not entitled to any relief.”

In **Brijesh Kumar and others vs. State of Haryana and others, 2014 (11) SCC 351**, the Hon'ble Supreme Court has laid down various principles in which law of limitation has legal maxim. While relying upon the judgment in case of **Esha Bhattacharjee vs. Raghunathpur Nafar Academy & others, 2013(4) RCR (Civil) 785**, the Hon'ble Apex Court principles regarding delay and laches were laid down which can be summarized as under:-

“ x x x

(v) Lack of bonafides imputable to a party seeking condonation of delay is a significant and relevant fact.

(vi) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.

x x x

(ix) The conduct, behavior and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.”

A glance at the aforesaid principles makes it crystal clear that increasing tendency to perceive delay as a non-serious matter and, hence, apathetic tendency can be exhibited in a nonchalant manner requires to be curbed.

On this score alone, the instant petition is not maintainable and is liable to be dismissed and the order is made accordingly.

July 31, 2017
m. sharma

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No