

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

**CWP No. 17695 of 2017
DECIDED ON: AUGUST 10, 2017**

KEHAR SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Ms. Mandeep Kaur, Advocate,
for the petitioner.

JASPAL SINGH, J (ORAL)

Petitioner preferred instant writ petition, under Articles 226/227 of the Constitution of India, seeking issuance of an appropriate writ, direction or order in the nature of Mandamus, directing the respondents to grant him special increments in view of judgment rendered by Hon'ble Apex Court in SLP (Civil) No. 13027 of 2011 and for refixing the pay and pensionary benefits of her along-with all consequential reliefs flowing therefrom, that too, along-with interest @18% per annum.

2.

At the very outset of arguments, it has emerged that petitioner stood

retired on 30.11.2002 on attaining the age of superannuation. The increments, if any, which are being claimed through the instant petition were allegedly allowed on 01.02.1994 and 01.11.1995. After the retirement of petitioner, the retiral benefits were not released/disbursed to the petitioner immediately thereafter and he instituted a civil suit captioned as Kehar Singh vs. Executive Engineer, Faridkot Canal Division, Faridkot and others; in the Court of Civil Judge (Sr. Division), Ropar seeking mandatory injunction directing the respondent to release the service benefit including pension, gratuity, EPF and leave encashment etc. which was subsequently dismissed as withdrawn vide order dated 12.04.2005 being fully satisfied. Meaning thereby, that the claim of the petitioner with regard to the service benefits including pension, gratuity, EPF and leave encashment was fully satisfied and nothing remains due and now he cannot be allowed to re-agitate the matter.

3. Otherwise also, the claim of the petitioner stood satisfied in the year 2005 and after sleeping over the matter for a period of approximately 11 years, he preferred the instant petition in the Month of August, 2017 claiming that he has not been given the benefit of special increments which were allegedly allowed on 01.02.1994 and 01.11.1995 and basing his claim on the basis of judgment rendered by this Court in CWP No. 9909 of 2008 titled as Tarlok Chand vs. State of Punjab and others, which has been upheld in LPA as well as by the Hon'ble Apex Court in SLP (Civil) No. 13027 of 2011 vide order dated 16.07.2014. The petitioner has been sleeping over the matter for the last more than a decade even after his claim was fully satisfied as discussed above. Thus, this Court is of the considered view that instant petition suffers from delay and

laches.

3. By now it is pretty settled proposition of law that the delay dis-entitles a party to discretionary relief under Article 226 or Article 32 of the Constitution. Moreover, petitioner kept sleeping over his rights for long and woke up after more than a decade when he got the information with regard to Tarlok Chand's case supra. Petitioners in the said case approached this Court in the year 2008 and contested the same till 2014. Rather, the claim of the petitioner is based upon the orders already passed by the respondents in the year 1994 and 1995. After that he served the department for a period of 9/10 years. Even, after retirement he approached the Civil Court and got the retiral benefits and other dues.

4. In the case of **Jagdish Lal v. State of Haryana, 1998(1) SCT 26 (SC) : (1997) 6 SCC 538**, the Hon'ble Apex Court has asserted 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. Otherwise also, the litigant who is guilty of long delay and laches is deemed to have acquiesced or waived off his claim or right. Those who initiated action in time and got the relief from the Court. Similar orders cannot be claimed ignoring the long and unexplained delay by others also who were not vigilant enough. Especially, in the circumstances that if such claims result into some financial burden upon the establishment, it will or may not be possible for the employer to meet with such additional liability after a long time.

5. In case **Chairman, UP Jal Nigam & Anr. vs. Jaswant Singh & Anr; 2007 (1) SCT 224**; the Hon'ble Apex Court has cautioned that the court will not

pass any such order ignoring the delay on the part of the claimants merely because some others have got the similar relief.

6. Thus, in the light of afore-said discussion and considering the case of the petitioner from any of the angles, this Court is of the considered view that instant petition is not maintainable and is accordingly, dismissed.

7. No order as to costs.

AUGUST 10, 2017
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(JASPAL SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes/No</i>