

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 114

Civil Writ Petition No.17699 of 2017 (O & M)
Date of Decision: August 10, 2017

M.R. Batra

..... PETITIONER

VERSUS

Uttar Haryana Vitran Nigam Limited & others

..... RESPONDENTS

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

. . .

PRESENT: - Mr. Gurvinder Singh, Advocate, for the petitioner.

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Jaspal Singh, J

1. By virtue of instant civil writ petition preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ in the nature of Mandamus, directing the respondents to grant notional fixation of revised basic pay/ pension.

2. The petitioner was appointed as Store Munshi in the year 1964. He was promoted as ALM and regularised by the competent authority. He was retired from service on attaining the age of superannuation. Petitioner has alleged that he was given basic pay @ ₹ 80/- per month whereas the prevailing rate was of ₹ 130/- per month. He served a legal notice dated January 20, 2017 upon the respondents for getting the revised basic pay but till date, it has not been decided.

3. At the very outset, a query was posed to learned counsel for the petitioner to the effect that as to why petitioner did not prefer any such petition claiming benefits, which have been claimed through the instant petition, but he could not give any satisfactory reply. There is an inordinate delay in serving legal notice as well as in filing the petition. Thus, petitioner is guilty of long delay and latches which is suggestive of the fact that he is deemed to have acquiesced or waived off his claim or right. Such a relief cannot be claimed ignoring the long and unexplained delay.

4. 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.”

5. 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.

6. Adverting to the case in hand, petitioner has claimed the fixation of revised basic pay and other retiral benefits in the year 2017

i.e. after more than five decades from the year of his joining service in the year 1964. In view of the legal position discussed above and on the basis of various authoritative pronouncements of the Hon'ble Apex Court, it can be safely observed that instant petition suffers from delay and laches.

6. Dismissed.

August 10, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No