

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 120

Civil Writ Petition No.18004 of 2017 (O & M)
Date of Decision: August 16, 2017

Sadhu Singh

..... PETITIONER

VERSUS

State of Punjab & others

..... RESPONDENTS

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

PRESENT: - Mr. Gulshan Sharma and Mr. Parveen Malhotra,
Advocates, 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 respondent Nos.1 and 2 to restore stoppage of five increments on account of penalty imposed upon him vide order dated December 03, 1981 as well as issuance of a writ in the nature of certiorari for quashing order dated May 08, 2017 whereby his appeal has been dismissed by respondent No.1 and prayer for restoring increments has been rejected.

2. There is an inordinate delay of more than 3 decades till the date of superannuation of petitioner and more than four years subsequent thereto in filing the appeal before the competent authority which is

dismissed vide Annexure P-4. Thus, petitioner is guilty of long delay and

laches 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.

3. 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.”

4. It is crystal clear from the perusal of the aforesaid findings that there is an increasing tendency to perceive delay as a non-serious matter. Hence, apathetic tendency exhibited in a nonchalant manner requires to be curbed.

5. Now coming to the averments made in the petition, the petitioner has claimed restoration of five increments which were stopped with cumulative effect by an order dated December 03, 1981 passed by the General Manager, Punjab Roadways, Ferozepur when he was working as Conductor No.80 in Ferozepur Depot in the year 1981 as one passenger was found without ticket on checking by the Flying squad. Petitioner superannuated on February 28, 2011. He moved an appeal dated December 09, 2015 to Secretary Transport, Punjab, in reply to which, respondent No.1, vide order dated February 11, 2016 directed him to send the copy of order of stopping of increments as well as to explain the delay in submitting his appeal. Be that as it may, aforesaid appeal was rejected vide order dated May 08, 2017 being time barred as per subsection 17 of Punjab Civil

Services (Punishment & Appeal) Rules, 1970. The petitioner preferred the appeal on December 09, 2015 against order dated December 03, 1981 i.e. after more than three decades. In view of the legal position discussed above, 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 latches.

9. In the light of what has been discussed above and in view of the authoritative pronouncements, referred to above, instant petition being devoid of merits is dismissed.

August 16, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No