

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.: 119

CWP No.18242 of 2017

Date of Decision: August 19, 2017

BHURA RAM

..... PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

..... RESPONDENTS

CORAM HON'BLE MR. JUSTICE JASPAL SINGH

PRESENT: Mr. Narinder Singh Behgal, Advocate,
for the petitioner(s).

Mr. Charanjit Singh Bakshi, Addl. A.G., Haryana.

. . .

Jaspal Singh, J

By virtue of instant civil writ petition, preferred under Article 226 of the Constitution of India, petitioner has sought issuance of a writ in the nature of Mandamus, directing the respondents to count the work charge period from July 22, 1972 to May 14, 1979 of the petitioner in his qualifying service for pension and other pensionary benefits and also grant interest @ 18% per annum on the amount re-calculated after re-fixing the pension and other pensionary benefits in view of letter dated November 25, 2013 (P-1).

2. 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 a delay of approximately more than 2½ decades till the date of superannuation of petitioner and more than a decade subsequent thereto in filing the petition. 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. 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.

5. Adverting to the case in hand, petitioner has claimed the counting of his previous work charge service from July 22, 1972 to May 14, 1979 for the purpose of pension as he had joined services in the year 1979 on regular basis and rendered service till the date of his superannuation i.e. June 30, 2006. The petitioner has sought the aforesaid period to be counted

towards pensionary and other retiral benefits in the year 2017 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 laches.

6. In the light of what has been discussed above, this Court does not find any merit in the instant petition. Instant petition stands dismissed.

August 19, 2017
Avin/Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No