

121 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH

CWP No. 18459 of 2017
DECIDED ON: AUGUST 21, 2017

SUKHWINDER SINGH

.....PETITIONER

VERSUS

THE PUNJAB STATE POWER CORPORATION LTD. & ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. B.D. Sharma, 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 the basic pay scale of ₹325/- since his joining as work-charge/cleaner and by subsequent enhancement of his pay in the coming years accordingly and pay him the revised pay scales @ ₹325/- per month as initial pay since joining as work-charge/cleaner and also revised the retiral benefits including the correct rate of pension and other consequential service and retiral benefits with further

direction to grant him promotions from the dates as have been granted to his co-employees.

2. The petitioner approached this Court by filing CWP No. 998 of 2013 challenging the impugned order of retirement passed by respondent-Corporation. In view of the direction given by this Court respondent-Corporation granted the pension and other benefits with regard to the arrears of re-fixation of the pay scale band. Ultimately, the said petition was disposed of by this Court vide order dated 10.01.2017. At that time petitioner did not raise any claim that he is entitled to grant of basic pay scale of ₹325/- since the date of his joining as work-charged/cleaner. He performed the duties and in the year 1977 he was promoted as WC/Driver in the office of SDO/Grid, PSEB, Tarn Taran under Grid Division, at Amritsar. He retired on 31.01.2013 i.e. after approximately serving the Corporation for 34/35 years. Either during the entire period of his service or subsequent thereto, when he preferred the previous writ petition i.e. CWP No. 998 of 2013, he did not claim that he was entitled to grant of basic pay scale of ₹325/- instead of ₹300/- and now he has come forward with the said claim.

3. Firstly, instant petition stands barred and claim stood amended or waived off in view of the disposal of earlier writ petition i.e. CWP No. 998 of 2013, preferred by the petitioner. Otherwise also, a cause of action if any, arose to the petitioner at the time when he allegedly made the payment of the salary showing his basic pay ₹300/- and not ₹325. Even, he did not raise any sort of objection during his entire service of approximately 34/35 years or subsequent thereto, while filing CWP No. 998 of 2013. There is no explanation what to

talk of any plausible explanation for not raising such a claim since 1978 till the date of filing of instant petition in the Month of August, 2017. 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 disentitles 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 four years. To buttress this observation we can have assistance conveniently from the guideline laid down by the Hon'ble Apex Court in case **Jagdish Lal v. State of Haryana, 1998(1) SCT 26 (SC) : (1997) 6 SCC 538.**

4. It is also equally settled that the law of limitation has legally to be construed especially in the circumstances that a right is accrued to the party opposite on account of delay which is attributed to the other party and said right cannot be scuttled down by taking a lenient view. Otherwise also, a party who approaches the Court is under a bounden duty to explain the delay in approaching the Court for a particular relief or to lay challenge to a specific order to which he/she aggrieved. To buttress this observation, we can have the reference made by the Hon'ble Apex Court in case ***Brijesh Kumar and others vs. State of Haryana and others, 2014 (11) SCC 351 and Esha Bhattacharjee vs. Raghunathpur Nafar Academy & others, 2013(4) RCR (Civil) 785.***

5. Adverting to the facts of the case in hand, cause of action, if any, would have accrued to the petitioner either at the time of his retirement i.e. 31.01.2013 or at the time of filing of CWP No. 998 of 2013, whereas he approached this Court in the month of August, 2017, i.e. approximately after

more than four years, that too, without any explanation.

6. Thus, in view of the facts and circumstances narrated above and the legal proposition, it can be safely observed that instant petition suffers from delay and laches especially in the circumstances that the petitioner slept over the matter for a considerable number of years from the date of accrual of cause of action without any reasonable cause

7. 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.

8. No order as to costs.

AUGUST 21, 2017
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(JASPAL SINGH)
JUDGE

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