

Challenge in this revision petition preferred under Articles 226 of the Constitution of India, is to an order dated 03.02.2011 (P-2) passed by respondent No.6, whereby an amount of Rs.4,62,057/- has been withheld/recovered from gratuity amount of the petitioner WITH FURTHER direction to release the withheld aforesaid amount of gratuity along with interest @ 18% per annum.

2. Undisputably, petitioner stood retired on 30.04.2010 on attaining the age of superannuation. Thereafter, till date petitioner did not opt to approach either concerned authorities or the Court but except only on September, 2017 by way of filing of instant petition. Thus, there is a considerable delay on the part of the petitioner in approaching the Court. There is no explanation furnished by him for not taking up the matter and filing of such petition earlier. As such, he 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 can neither be claimed or granted by ignoring a long and unexplained delay simply because, it is a continuing cause.

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. Petitioner kept sleeping over his rights for long and woke up after seven 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**

CWP No. 20772 of 2017

-3 -

*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 at the time of recovery effected after his retirement i.e. on 03.02.2011, whereas he approached this Court in the month of September, 2017, i.e. approximately after 06 years and 6 months 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.

OCTOBER 31, 2017

Ankur

(JASPAL SINGH)
JUDGE

*Whether speaking/reasoned
Whether reportable*

*Yes
Yes/No*