

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 106

Civil Writ Petition No.26368 of 2016 (O & M)
Date of Decision: August 02, 2017

Bakshish Singh

..... PETITIONER

VERSUS

State of Punjab & another

..... RESPONDENTS

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

PRESENT: - Mr. P.S. Khurana, Advocate, for the petitioner.

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Jaspal Singh, J

1. The instant petition has been preferred by the petitioner under Article 226/227 of the Constitution of India, for issuance of a writ in the nature of Mandamus, directing the respondents to count his previous service with State of Punjab in the Department of Soil Conservation, Punjab, for the purpose of pensionary benefits and re-fixation of his pension accordingly alongwith consequential benefits.

2. There is a delay of almost 28 years till the date of superannuation of petitioner and nearly 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 relief to consider the grant of benefit of pension/refixation of pension to him by counting the previous services in Department of Soil Conservation between August 23, 1971 to June 4, 1980 for purposes of pension. The petitioner has sought the aforesaid period to be counted towards pensionary and other retiral benefits in the year 2015 by way of a representation (Annexure P-4) i.e. after more than 3½ decades. 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. In the light of what has been discussed above and keeping in view the fact that instant petition suffers from delay and laches, no ground for interference by this Court is called for.

7. Dismissed.

8. No order as to costs.

August 02, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No