

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH
Sr. No.: 130

CWP No.23093 of 2017 (O&M)
Date of Decision: *October 09, 2017*

GIAN CHAND WADHWA

..... PETITIONER

VERSUS

PUNJAB STATE POWER CORPORATION LIMITED AND OTHERS

..... RESPONDENTS

CORAM HON'BLE MR. JUSTICE JASPAL SINGH

PRESENT: Mr. J.S. Jaidka, Advocate,
for the petitioner.

. . .

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 certiorari, quashing the office order dated May 23, 2007 (P-2) by which the claim of the petitioner for 23 year ACP Scale has been denied and further for issuance of a writ in the nature of mandamus, directing the respondent authorities to grant the 23 year ACP scale to the petitioner along with due interest @ 18% per annum.

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 1 decade 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 facts of the case in hand, petitioner joined the respondent-Corporation on November 08, 1977 as UDC by direct recruitment and he was promoted as Divisional Accountant on November 15, 1994. Petitioner was further promoted as SAS Accountant on July 18, 2011. Petitioner stood retired on May 31, 2013 on attaining the age of superannuation. As per Finance Circular No.34/95 dated October 31, 1995 of the Board, every employee is to be given the benefits of one induction post. The promotion of the petitioner as Divisional Accountant had ordered out of his cadre. Besides this, in Circular No.20/2000 dated July 28, 2000

of the Board, the condition is entered that there should be three avenue of promotion because petitioner had already taken the benefit of high time bound scale of 9 years and 16 years being Upper Division Clerk and the promotion as Divisional Accountant do not fall under his normal channel. Therefore, 23 years promotion benefit is not payable to the employee. The petitioner has sought the aforesaid relief through the instant petition in the year 2017 i.e. after more than 1 decade after his claim was declined by the department. 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.

October 09, 2017
Avin/Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No