

120 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 24171 of 2017
DECIDED ON: OCTOBER 26, 2017**

CHANDER KALAN

.....PETITIONER

VERSUS

UNION OF INDIA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Jagpal Singh, Advocate
 for the petitioner.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought for the issuance of a writ in the nature of mandamus directing the respondent no. 4 to decide the representation Annexure P-1 dated 12.06.2017 and to pass a speaking order on the same, whereby petitioner prayed for grant of family pension.

2. Undisputably, husband of the petitioner joined the Indian Navy as ME II on 23.01.1963. Thereafter, he was promoted to the Rank of Ex. LME No. 81562 on 01.11.1968 and discharged from his services on 20.08.1972 on

being invalidated on medical grounds. Unfortunately, he expired on September 20, 1998. Petitioner approached this Court in the month of October, 2017, seeking the afore-said relief, whereas the cause of action, if any, accrued to her in September 1998 i.e. more than 19 years ago.

3. Thus, petitioner is guilty of long delay and laches which is suggestive of the fact that she is deemed to have acquiesced or waived off her claim or right. Such a relief cannot be claimed ignoring the long and unexplained delay simply because, it is a continuing cause, particularly when there is no explanation at all.

4. It is pretty settled by now that the delay disentitles a party to discretionary relief under Article 226 or Article 32 of the Constitution especially when she kept sleeping over her right(s) for long, woke up and filed the instant petition, which is not amenable to judicial review at this belated stage. To buttress this observation, we can have the reference of judgment captioned as **Jagdish Lal v. State of Haryana, 1998(1) SCT 26 (SC) : (1997) 6 SCC 538**, rendered by Hon'ble Apex Court

5. In the case of **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 legally to be construed. 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:-

“XXXXXXXX

(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.*

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(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.”*

6. No doubt, a perusal of the aforesaid observation depicts that there is an increasing tendency to perceive delay as a non-serious matter. Yet this, apathetic tendency exhibited in a nonchalant manner requires to be curbed.

7. Reverting back to the facts of the instant petition, cause of action, if any, would have accrued to the petitioner in the month of September 1998, whereas she approached this Court in the month of October, 2017, i.e. approximately after 19 years that too, without any explanation.

8. 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 latches 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

9. 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.

10. No order as to costs.

OCTOBER 26, 2017
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(JASPAL SINGH)
JUDGE

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