

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

**CWP No. 24176 of 2017
DECIDED ON: OCTOBER 26, 2017**

BANWARI LAL & ORS

.....PETITIONERS

VERSUS

STATE OF HARYANA & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Sanjay Verma, Advocate
 for the petitioners.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Articles 226/227 of the Constitution of India, petitioners have sought for the issuance of writ especially in the nature of Mandamus, directing the respondents to re-fix their pay in view of the judgments passed by this Court in CWP No. 16084 of 1997 as well as CWP No. 13300 of 1990 vide which letter dated 20.03.1974 (P-3) was declared illegal and arbitrary and additional dearness allowance was granted to the employees of the government of Haryana WITH FURTHER direction to decide the representation July 11, 2017 (P-6) in view of the afore-said judgments.

Undisputably, petitioners appointed in Police Department Haryana

and without any stigma they completed their service. Vide impugned order dated 20.03.1974 (P-3) the ad hoc relief granted w.e.f. 01.04.1972 vide notification dated 27/29.06.1972 (P-1) was withdrawn and ordered to be adjusted against additional D.A. Petitioners approached this Court in the month of October 2017, seeking the afore-said relief in lieu of some other employees who approached this Court whereas, petitioners were not the party to those writ petitions. Thus, the cause of action, if any, accrued to them was in the year 1974 i.e. more than 44 years ago.

3. On the face of it, there appears a delay and laches on the part of petitioners in approaching the Court, which is approximately of four decades. There is no explanation what to talk of any plausible explanation for not taking up the matter and filing of such petition earlier. Thus, petitioners are guilty of long delay and laches which is suggestive of the fact that they are deemed to have acquiesced or waived off their claim or right. Such a relief cannot be claimed ignoring the long and unexplained delay simply because, it is a continuing cause.

4. In an identical 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.”

5. Similarly, 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 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. In the case in hand, cause of action, if any, would have accrued to the petitioners in the month of March, 1974, whereas they approached this

Court in the month of October, 2017, i.e. approximately after 44 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

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No