

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

**CWP No.26402 of 2017
DECIDED ON: NOVEMBER 20, 2017**

SURJIT SINGH

.....PETITIONER.

VERSUS

UNION OF INDIA AND OTHERS

.....RESPONDENTS.

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Jarnail S. Saneta, Advocate,
for the petitioner.

JASPAL SINGH, J (ORAL)

By virtue of instant civil writ petition, preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ in the nature of certiorari quashing the action of the respondent-authorities in not considering the request of the petitioner for his voluntary retirement made through application dated 24.04.2005 (Annexure P-2) and for quashing order dated 27.06.2007 (Annexure P-16) dismissal of the petitioner from service by declaring him absent from duty/over staying leave without communication. And further directing the respondents to consider the petitioner deemed to have retired from service w.e.f. the date of his submitting application dated 24.04.2005 (Annexure P-2) and to grant him all retiral benefits and full pension along with interest.

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, at an early stage 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 ***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. 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 but with no order as to costs.

NOVEMBER 20, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned ***Yes***

Whether reportable ***Yes/No***