

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

**CWP No. 27236 of 2017
DECIDED ON: DECEMBER 11, 2017**

RAVI KUMAR

.....PETITIONERS

VERSUS

UNION OF INDIA & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Sandeep Arora, 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 respondents to grant him pensionary benefits on account of his service with the department from 1990 to 1997, as on account of his absence for a period of 7 days, the department had dismissed him from service w.e.f. 09.08.1997 WITH FURTHER prayer for the issuance of a writ in the nature of certiorari for setting aside/quashing the letter dated February 06, 2013 (P-5) vide which department has rejected the right of the petitioner to grant him pension on account of his orders of dismissal been passed.

2. Undisputably, petitioner was enrolled in CRPF as on 11.04.1990 against the permanent post. Petitioner remained absent from the duty for a period of about 7 days w.e.f. 23.07.1997 to 29.07.1997. In view of order dated 07.08.1997 passed by Magistrate, Ist Class, Commandant 128 Bn CRPF, petitioner was dismissed from service vide order dated 09.08.1997 (P-2). An appeal challenging the order dated 09.08.1997 was also dismissed vide order dated 28.10.1997. He filed a suit for declaration before Civil Judge (Sr. Division), Gurdaspur, which was also dismissed by learned trial Court vide order dated May 09, 2001 (P-3). Consequently, appeal filed by the petitioner also dismissed vide order dated 04.02.2004. Thereafter, petitioner moved representation dated 16.10.2012 (P-4) before the concerned authority for the grant of pension/regularization of his service in CRPF but the same was also dismissed vide order dated 06.02.2013 (P-5). Petitioner approached this Court in the month of November , 2017, seeking the afore-said relief, whereas the cause of action, if any, accrued to him in February, 2013 i.e. more than 5 years ago.

3. Apparently, there is a delay and laches on the part of petitioner in approaching the Court. There is no explanation what to talk of any plausible explanation for not taking up the matter and filing of such petition earlier. 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 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 has 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:-

“XXXXXXXXX

(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 petitioner in the month of February 2013, whereas he approached this Court in the month of November, 2017, i.e. approximately after 5 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.

DECEMBER 11, 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>