

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

**CWP No. 29789 of 2017
DECIDED ON: DECEMBER 22, 2017**

SURINDER KUMAR GOEL

.....PETITIONER

VERSUS

PUNJAB STATE WAREHOUSING CORPORATION.

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. J.P. Rana, 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 writ in the nature of mandamus directing the respondents to take a decision on the legal notice dated 09.05.2017 (P-6) with regard to release the adjusted amount of ₹2,13,750.50/- vide order dated 03.06.2011 (P-2), issued in violation of the provisions of Rule 2.2 (B) of the Punjab Civil Services Vol. II Part One, from his pensionary benefits.

2. Undisputably, petitioner stood retired on attaining the age of superannuation on 30.06.2004 and the order with regard to recovery of balance

amount of ₹2,13,750.50/- was issued on 03.06.2011 (P-2). Thus, there is a considerable delay on the part of the 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 matter captioned as **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.

5. It is also equally settled that the law of limitation has legally to be construed especially in the circumstances that a right is accrued to the party opposite on account of delay which is attributed to the other party and said right cannot be scuttled down by taking a lenient view. Otherwise also, a party who approaches the Court is under a bounden duty to explain the delay in approaching the Court for a particular relief or to lay challenge to a specific order to which he/she aggrieved. To buttress this observation, we can have the reference made by the Hon'ble Apex Court in case ***Brijesh Kumar and others vs. State of Haryana and others, 2014 (11) SCC 351 and Esha Bhattacharjee vs. Raghunathpur Nafar Academy & others, 2013(4) RCR (Civil) 785.***

6. Adverting to the facts of the case in hand, cause of action, if any, would have accrued to the petitioner on 03.06.2011 when recovery order was passed , whereas he approached this Court in the month of December,

2017, i.e. approximately after more than 5 years, that too, without any explanation.

7. 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 laches 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

8. 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.

9. No order as to costs.

DECEMBER 22, 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>