

CWP No. 11574 of 2018
DECIDED ON: MAY 09, 2018

....PETITIONER

**THE SECRETARY PUNJAB RAJ POWER CORPORATION LTD.,
PATIALA AND ANOTHER**

.....RESPONDENTS

Present: Mr. M.S. Kang, Advocate,
for the petitioner.

JASPAL SINGH, J (ORAL)

Petitioner preferred instant writ petition, under Articles 226/227 of the Constitution of India, seeking issuance of an appropriate writ, direction or order in the nature of Mandamus, directing the respondents No.1 and 2 to decide representation/legal notice dated 15.03.2018 (P-8)

2. The contention of learned counsel for the petitioner is that vide communication dated 23.02.2012 issued by the Finance Department, Government of Punjab, which has been forwarded to all the heads of the

Departments, a decision was taken by the Government to grant the pension benefits to daily wage/work charge employees who retired prior to 01.01.2004 by counting their daily wage/work charge service rendered by them but the said benefit has not been granted to the petitioner as he stood retired on 31.05.2003 on attaining the age of superannuation i.e. before 01.01.2004.

3. Undisputably, petitioner stood retired on 31.05.2003 on attaining the age of superannuation. Thereafter, till date petitioner did not opt to approach either concerned authorities or Court but except only on 03.05.2018 by way of filing of instant petition. Thus, there is a considerable delay on the part of the petitioner in approaching the Court. There is no explanation furnished by him for not taking up the matter and filing of such petition earlier. As such, he 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 can neither be claimed or granted by ignoring a long and unexplained delay simply because, it is a continuing cause.

4. By now it is pretty settled proposition of law that the delay disentitles a party to discretionary relief under Article 226 or Article 32 of the Constitution. Petitioner kept sleeping over his rights for long and woke up after five years. To buttress this observation we can have assistance conveniently from the guideline laid down by the Hon'ble Apex Court in case **Jagdish Lal v. State of Haryana, 1998(1) SCT 26 (SC) : (1997) 6 SCC 538.**

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 at the time of issuance of communication dated 23.02.2012 (P-7), whereas he approached this Court in the month of May, 2018, i.e. approximately after more than five 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.

8. No order as to costs.

MAY 09, 2018
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No