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

**CWP No. 1166 of 2018
DECIDED ON: MARCH 01, 2018**

URMILA DEVI

.....PETITIONER

VERSUS

STATE OF HARYANA & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Rahul Jaswal, 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 especially in the nature of Mandamus, directing the respondents either to grant her the benefit of widow pension under the Haryana Municipal Employees Pension and General Provident Fund Rules, 1993 and the benefit of Contributory Provident Fund (CPF) on account of death of her husband Late Sh. Gulab Singh and to release the arrears of widow pension or CPF along with interest @ 12% p.a.

2. Undisputably, husband of the petitioner namely Sh.Gulab Singh joined the Municipal Committee, Samalkha-respondent No.3 as Safai

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Karamchari and expired on March 15, 1990. After the death of her husband, petitioner was given appointment as Safai Karamchari on compassionate grounds and joined her duties on May 22, 1990 and is continuing working as such. She approached this Court in the month of January, 2018, seeking the afore-said relief, whereas the cause of action, if any, accrued to her in March, 1990 i.e. more than 27 years ago.

3. Apparently, there is a delay and laches on the part of petitioner in approaching the Court, which for approximately of two and half decade. 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 she is deemed to have acquiesced or waived off her claim or right. Such a relief cannot be claimed ignoring the long and unexplained delay simply because, it is a continuing cause.

4. In 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.”

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5. In another identical matter captioned as **Union of India & others vs. C.K. Dharagupta & others, 1992(2) SCT 117 (SC) : (1997) 3 SCC 395**, it was observed as under:-

“We, however, clarify that in view of our finding that the judgment of the Tribunal in R.P. Joshi gives relief only to Joshi, the benefit of the said judgment of the Tribunal cannot be extended to any other person. The respondent C.K. Dharagupta (since retired) is seeking benefit of Joshi case. In view of our finding that the benefit of the judgment of the Tribunal dated 17.-3-1987 could only be given to Joshi and nobody else, even Dharagupta is not entitled to any relief.”

6. 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.

XXXXXXXX

(ix) The conduct, behavior and attitude of a party relating to its inaction or negligence are relevant factors to be taken into

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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.”

7. 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.

8. In the case in hand, cause of action, if any, would have accrued to the petitioner in the month of March, 1990, whereas she approached this Court in the month of January, 2010, i.e. approximately after 27 years and 6 months that too, without any explanation.

9. 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

10. 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.

11. No order as to costs.

MARCH 01, 2018

Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No