

108 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH

CWP No. 12089 of 2018
DECIDED ON: MAY 23, 2018

EX MATE OMKAR

.....PETITIONER

VERSUS

UNION OF INDIA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Varun Gupta, Advocate,
 for the petitioner.

JASPAL SINGH, J (ORAL)

By virtue of instant petitioner preferred under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of certiorari quashing the impugned letter No. 2400/Legal Notice/105/NER (CC), dated 03.03.2015 (P-4) and also further clarified that this department i.e. GREF is governed under CCS (Pension) Rules 1972, according to said rule, minimum 20 years qualifying service is mandatory to get pensionary benefits and he has rendered 8 years 8 months 27 days service in GREF in an Emergency period by

virtue of which he has been denied pensionary benefits, which is illegal, arbitrary, discriminatory and unconstitutional because he had been discharged from service due to scarcity of work in the department and re-organization by deducting its strength, a large number of pioneers were declared SURPLUS and also governed under CCS (Pension) Rules 1972 is contrary to situation because he had been retired on 05.06.1971 before CCS (Pension) Rules 1972 came into force during 1972 after his retirement WITH FURTHER prayer for issuance of a writ in the nature of mandamus directing the respondents to sanction and release the service pension to the petitioner for the service rendered by him in GREF which is applicable for reduction of strength due to scarcity of work in the department as per CCS (Extra Ordinary Pension) Rules, 1965, which was existed enforce at the time of his retirement.

2. Undisputably, petitioner stood retired on 05.06.1971. 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.

3. 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 two and a half decades. 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.**

4. 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.***

5. Adverting to the facts of the case in hand, cause of action, if any, would have accrued to the petitioner at the time his retirement i.e. on 05.06.1971, whereas he approached this Court in the month of 03.05.2018, i.e. approximately after about five decades, that too, without any explanation.

6. 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

7. 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 23, 2018
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(JASPAL SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes/No</i>