

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

**CWP No. 16511 of 2018
DECIDED ON: JULY 30, 2018**

SULTAN SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. G.S. Gopera, 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 certiorari to quash the impugned letters dated 17.09.2010 (P-3 and P-4) issued by respondents No.1 and 2, respectively, to the extent of restricting the benefit of classification of the post of Work Mistry from category IV to III w.e.f. 17.09.2010, being without any rational, unjustified and even contrary to the office orders dated 26.05.1995, (P-2) granting the said benefit w.e.f 01.04.1995 with further prayer for issuance of a writ in the nature of mandamus directing the respondents to grant the afore-said benefit of classification w.e.f.

01.01.1986 i.e. from the date of revision of the pay scales and to grant all the consequential benefits arising therefrom, to which he is legally entitled.

2. Undisputably, petitioner stood retired on attaining the age of superannuation on 31.01.2013. Thereafter, till date petitioner did not opt to approach either concerned authorities or Court but except only on 07.07.2018 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 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.

3. 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 choose to sit over the matter and woke up after the decision of Court, then such person cannot stand to benefit.

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 either on the date of his retirement i.e. 31.01.2013 or on the date when the impugned letters were issued i.e. 17.09.2010, whereas he approached this Court in the month of July, 2018, i.e. approximately after more than seven years of issuance of impugned letters, 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.

JULY 30, 2018
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(JASPAL SINGH)
JUDGE

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