

CWP No. 16862 of 2018

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

**CWP No. 16862 of 2018
DECIDED ON: AUGUST 21, 2018**

GURBAX SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Kehar Singh Hissowal, 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 issuance of a writ in the nature of Mandamus directing the respondents to consider his legal notice dated 28.09.2017 (P-1) and to promote him as lineman, for which, he was entitled during his service period, but he was not promoted for the post of Lineman and his juniors were promoted as Lineman WITH FURTHER to grant the enhanced benefits along with interest.

2. Undisputably, petitioner stood retired on attaining the age of superannuation on 30.09.2010. Thereafter, till date petitioner did not opt to

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approach either concerned authorities or Court but except only on 09.07.2018 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 matters i.e. CWP No. 16860 of 2017, titled **Bimal Pradhan vs. State of Haryana & others;** decided on 01.08.2017, CWP No. 17699 of 2017, titled **M.R. Batra vs. Uttar Haryana Bijli Vitran Nigam Ltd;** decided on 10.08.2017 and CWP No. 18004 of 2017, titled **Sadhu Singh vs. State of Punjab,** decided on 16.08.2017, this Court while relying upon the judgments delivered by the Hon'ble Apex Court in captioned as ***Jagdish Lal v. State of Haryana, 1998(1) SCT 26 (SC) : (1997) 6 SCC 538, 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,*** has 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.

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

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approaching the Court for a particular relief or to lay challenge to a specific order, to which, he/she is aggrieved.

5. Adverting to the facts of the case in hand, cause of action, if any, would have accrued to the petitioner on the date of his promotion became due or any of his junior was promoted or at the most on his retirement i.e. 30.09.2010, whereas he approached this Court in the month of July 2018, i.e. approximately after more than eight years, that too, without any explanation. There is also nothing on record as to why actually the cause of action accrued.

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.

AUGUST 21, 2018
Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No