

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

**CWP No. 17970 of 2018
DECIDED ON: AUGUST 10, 2018**

SURINDER SINGH

.....PETITIONER

VERSUS

UNION OF INDIA AND ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Barjinder Singh, Advocate,
for the petitioner.

JASPAL SINGH, J.

Instant petition has been preferred, under Article 226/227 of the Constitution of India, for quashing of order dated 28.11.1996 (P-9) and order dated 02.11.2017 (P-11) whereby claim of petitioner regarding promotion to the grade of Sub-Inspector/Clerk was declined. And a writ in the nature of mandamus, directing the respondents to promote the petitioner to the grade of Sub-Inspector/Clerk w.e.f. the date when his juniors were promoted and to grant the benefits of promotion to the petitioner to the aforesaid post along with all consequential benefits.

2. Undisputably, petitioner was relieved from service of BSF on voluntary retirement on 31.08.1995. Thereafter, petitioner only approached the department vide application dated 30.09.2017, which was rejected vide order

dated 02.11.2017. Before 30.09.2017, petitioner did not opt to approach either concerned authorities or the Court. In July, 2018, petitioner filed the 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 of passing of order dated 28.11.1996, whereas he approached this Court in the month of July, 2018, i.e. more than two 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.

AUGUST 10, 2018
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(JASPAL SINGH)
JUDGE

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