

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

**CWP No. 20167 of 2018
DECIDED ON: AUGUST 14, 2018**

RAM KUMAR

.....PETITIONER

VERSUS

STATE OF HARYANA AND ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Manoj Sharma, Advocate,
for the petitioner.

JASPAL SINGH, J.

Through instant petition preferred, under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ in the nature of certiorari for quashing the adverse remarks in the ACR for the year 1995-96 sent through letter dated 03.04.1997 (P-2) by respondent No.3 and order dated 16.07.1998 (P-3) passed by respondent No.2 and order dated 29.12.1998 (P-4) passed by respondent No.1

2. Undisputably, petitioner was appointed as Conductor on 01.12.1978 and was retired from service on 30.11.2012. During his service, petitioner received a letter dated 03.04.1997 regarding adverse remarks recorded in the ACR for the year 1995-96 against which, he made a representation, which was rejected vide letter dated 03.04.1997. Thereafter, he made a representation

before respondent No.1, which was also dismissed vide order dated 29.12.1998. Thereafter, petitioner did not opt to approach the Court but except only on July, 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 of passing order(s) dated 16.07.1998 and 29.12.1998, whereas he approached this Court in the month of July, 2018, i.e. approximately 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 14, 2018
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(JASPAL SINGH)
JUDGE

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