

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

CWP-20665-2018

Date of decision: - 20.11.2018

Ram Chand

....Petitioner

Versus

Managing Director, Uttari Haryana Bijli Vitran Nigam and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Narinder Singh Behgal, Advocate, for the petitioner.

HARSIMRAN SINGH SETHI, J. (ORAL)

Present writ petition has been filed with a prayer that the petitioner, who retired from service on 31.03.1999 should be allowed to change his option so as to switch over the pension scheme. The petitioner is approaching this Court after a period of unexplained delay of 18 years.

Counsel for the petitioner relies upon the order which was passed in another case by which an employee who was allowed to change the option. The said writ petition on which the reliance is being placed was filed in the year 1997 i.e. much before the petitioner retired in the year 1999. Petitioner did not agitate or made any claim while in service or immediately thereafter. The unexplained delay of 18 years and that too for changing the option, in opinion of this Court, is fatal. Petitioner had taken all the benefits after retirement without any objection and now filed the writ petition after 18 years of retirement.

The Hon'ble Supreme Court in the case of State of Uttar Pradesh & Ors. Versus Arvind Kumar Srivastava & Ors. 2015 (1) SCC (L&S) 191 has dealt with this question and summoned up law on this issue in Para 23 as under: -

“(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.”

Therefore, the claim of the petitioner is liable to be rejected on the ground of delay itself.

In view of the above, at this stage, after 18 years of retirement, the petitioner cannot be allowed to change his option to claim pension.

Present writ petition is dismissed on the ground of delay itself.

November 20, 2018
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No