

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

**CWP No. 3572 of 2018
DECIDED ON: MARCH 15, 2018**

MOHINDER SINGH SALARIA

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. G.S. Bal, Sr. Advocate with
Ms. Manjit Kaur, 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 the issuance of a writ in the nature of mandamus directing the respondents to accept the option given by him for getting revised pay scales and re-fix his pay in the revised pay scales made effective from 01.01.1986 w.e.f the date mentioned against his name in Annexure P-1 and grant all consequential benefits pursuant thereto.

Undisputably, petitioner stood retired on 31.07.2008 on attaining

the age of superannuation from the Irrigation Department, Punjab as Junior Engineer. Petitioner approached the authorities on 20.10.2017 by way of serving of legal notice upon the respondents. Thereafter, he approached this Court in the Month of February 2017. 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 more than nine years. 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 his retirement i.e. on 31.07.2008, whereas he approached this Court in the month of February, 2018, i.e. approximately after more than nine years, 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.

MARCH 15, 2018
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No