

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

**CWP No. 7425 of 2018
DECIDED ON: APRIL 23, 2018**

HARI SINGH & OTHERS

.....PETITIONERS

VERSUS

STATE OF HARYANA & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Sunil Kumar Bhardwaj, Advocate
 for the petitioners.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Articles 226/227 of the Constitution of India, petitioners have sought for the issuance of writ in the nature of certiorari/mandamus for quashing the impugned action of the respondents in deducting the ad-hoc dearness allowance, while refixation of pay as on 01.01.1981, without passing any order & without assigning any reasons and in not restoring the same in view of the letter dated 16.03.2017 (P-1) issued by Finance Department to Government of Haryana with further prayer for issuance of a writ in the nature of mandamus directing the respondents to restore the ad-hoc dearness allowance discontinued since 1981, being recurring

financial loss to them as the similar benefit has been granted to other similarly situated employees in view of letter dated 16.03.2017 (P-1) issued in compliance of judgment passed by Hon'ble Apex Court in Civil Appeal No. 8661 of 2009, titled as State of Haryana and others vs. R.K. Gupta & others, decided on 08.12.2015 (P-3) along-with arrears as well as interest on account of refixation of pay/pension as well as all other consequential benefits arising therefrom;

2. Undisputably, petitioner No.1 was appointed as Clerk with the respondent-department on 02.09.1971 and joined the office of District Education Officer, Mahendergarh similarly the other petitioners have also joined at their respective places of posting. The benefit of Ad hoc dearness allowance was restored by this Court in a writ petition filed by similarly situated employees vide order dated 11.08.2003 (P-2). Petitioners approached this Court in the month of March 2018, seeking the afore-said relief in lieu of some other employees who approached this Court whereas, petitioners were not the party to those writ petitions. Thus, the cause of action, if any, accrued to them was in the year 2003 i.e. more than 14 years ago.

3. On the face of it, there appears a delay and laches on the part of petitioners in approaching the Court, which is approximately of 14 years. There is no explanation what to talk of any plausible explanation for not taking up the matter and filing of such petition earlier. Thus, petitioners are guilty of long delay and laches which is suggestive of the fact that they are deemed to have acquiesced or waived off their claim or right. Such a relief cannot be claimed ignoring the long and unexplained delay simply because, it is a continuing

cause.

4. In an identical case **Jagdish Lal v. State of Haryana, 1998(1) SCT 26 (SC) : (1997) 6 SCC 538**, the Hon'ble Apex Court observed that if a person choose to sit over the matter and woke up after the decision of Court, then such person cannot stand to benefit. In that case, it was observed as follows:-

“The delay disentitles a party to discretionary relief under Article 226 or Article 32 of the Constitution. The appellants kept sleeping over their rights for long and woke up when they had the impetus from Vir Pal Singh Chauhan case. The appellants’ desperate attempt to redo the seniority is not amenable to judicial review at this belated stage.”

5. Similarly, in **Brijesh Kumar and others vs. State of Haryana and others, 2014 (11) SCC 351**, the Hon'ble Supreme Court has laid down various principles in which law of limitation has legally to be construed. While relying upon the judgment in case of **Esha Bhattacharjee vs. Raghunathpur Nafar Academy & others, 2013(4) RCR (Civil) 785**, the Hon'ble Apex Court principles regarding delay and laches were laid down which can be summarized as under:-

“XXXXXXXXX

(v) Lack of bonafides imputable to a party seeking condonation of delay is a significant and relevant fact.

(vi) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.

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(ix) The conduct, behavior and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.”

6. No doubt, a perusal of the aforesaid observation depicts that there is an increasing tendency to perceive delay as a non-serious matter. Yet this, apathetic tendency exhibited in a nonchalant manner requires to be curbed.

7. In the case in hand, cause of action, if any, would have accrued to the petitioners in the year 2003, whereas they approached this Court in the month of March 2018, i.e. approximately after 14 years that too, without any explanation.

8. 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 latches especially in the circumstances that the petitioners slept over the matter for a considerable number of years from the date of accrual of cause of action without any reasonable cause

9. 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.

10. No order as to costs.

APRIL 23, 2018

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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No