

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

Date of decision : 14.03.2019

1. CWP-9683-2016

Jarmanjeet Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

2. CWP-22253-2016

Navdeep Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Karanjit Singh, Advocate for the petitioner(s).

Mr. TPS Chawla, DAG, Punjab.

JITENDRA CHAUHAN J. (ORAL)

The above-noticed two writ petitions are being disposed of by this single judgment as common questions of law and facts are involved therein. However, the facts are being derived from CWP-9683-2016, for brevity.

It is contended that grandfather of the petitioner, S. Joginder Singh, aged about 50 years was killed by the terrorists on 11.04.1992. The

State of Punjab notified a scheme for appointment on compassionate grounds to the kin of persons affected during terrorist activities vide instructions dated 09.07.2008 (Annexure P-2). The petitioner being fully eligible, applied for grant of compassionate appointment under the policy (Annexure P-2) vide application dated 19.05.2015 (Annexure P-3) along with necessary documents. A report was called by the Tehsildar with regard to pedigree table of the family of the petitioner which was submitted as Annexure P-5. However, no appointment has been given to the petitioner till date.

On the other hand, learned State counsel submits that the petitioner being grandson of the alleged terrorist victim, is not entitled for appointment on compassionate grounds. It is further submitted that the claim of the petitioner deserves to be declined on the ground of delay and latches as the claim has been laid after more than 13 years of the death. The incident in question took place on 12.04.1992, whereas, the petitioner applied for compassionate appointment in the year 2015.

Heard.

It is to be noticed that as per letter dated 21.11.2002, issued by the Government of Punjab, Department of Personnel (Personnel Policies-II Branch), the following persons would be eligible to be considered for appointment on compassionate grounds:-

- 1. A dependant member of the family of a person (bread-winner) killed or 100% physically disabled in terrorist action or by security forces acting in aid of civil power,*

in the State:

2. *A dependant member of the family of the deceased Government employee, who dies in harness;*
3. *Disabled Ex-servicemen (fit for Civil Service);*
4. *A dependant member of the family of the Defence Services' Personnel;*
 - (i) *Killed in service, while performing duties, or*
 - (ii) *Who are severely disabled and totally unfit for re-employment."*

It is to be further noticed that as per the instructions issued by the Punjab Government, a dependant family member means:

- “(a) Spouse; or*
(b) Son (including adopted son);
(c) Unmarried Daughter (including adopted daughter); or
(d) Un-married Brother or Un-married sister in the case of unmarried Govt. Servant who was wholly dependant on the Govt. servant/member of the Armed Forces at the time of death in harness.”

It is to be noticed that the petitioner is the grandson of the terrorist victim, therefore, his case is not covered by the policy in question. Furthermore, there is inordinate and unexplained delay in laying claim inasmuch as the incident took place in the year 1992, whereas, the policy for compassionate appointments was notified in the year 2002. The application for compassionate appointment was moved by the petitioner in the year 2015. A Division Bench of this Court in ***Hardeep Singh Versus Union of India and others, 2012(3) S.C.T 626***, has held as under:-

*“6. It is admitted position that the father of the petitioner died in the **year** 1997. Petitioner was minor at the relevant time. He attained majority after 6 **years** of death of his father. The claim of the petitioner for compassionate appointment was rejected in the **year** 2005 but he approached the Tribunal only in the **year** 2011 i.e. after a lapse of about **13 years** from the date of death of the deceased employee and 6 **years** from the date of passing of rejection order. The Tribunal has rightly rejected the petitioner on grounds of **delay** and laches which remains unexplained. Even on merits petitioner's claim for compassionate appointment is not sustainable. The object of the compassionate appointment is to provide immediate financial help to the family in penury and overcome their financial needs. It has been noticed by the authorities while rejecting the claim that the family is not in penurious and in indigent condition. Nothing has been mentioned about this aspect. Otherwise also the claim for compassionate appointment after such a long period is not sustainable in view of the dictum of the judgement of Hon'ble Supreme Court in case of **Mumtaz Yunus Mulani v. State of Maharashtra & others., reported as 2008(2) SCT 669 : [2008(3) SLR 782 (SC)]** made following observations:*

"Furthermore about 12 years have passed. Appellant's son is aged about 20 years and daughter is aged about 16 years. Therefore they have become major. Appellant herself would be aged about 38 years now. She cannot be given any appointment at this age."

Hon'ble the Supreme Court in *Prabhakar Versus Joint Director Sericulture Department and Anr.*, 2015 (15) SCC 1, while dealing with the question of delay and laches observed as under:-

“35. Let us examine the matter from another aspect, viz. laches and delays and acquiescence.

36. It is now a well recognised principle of jurisprudence that a right not exercised for a long time is non-existent. Even when there is no limitation period prescribed by any statute relating to certain proceedings, in such cases Courts have coined the doctrine of laches and delays as well as doctrine of acquiescence and non-suited the litigants who approached the Court belatedly without any justifiable explanation for bringing the action after unreasonable delay. Doctrine of laches is in fact an application of maxim of equity "delay defeats equities".

37. This principle is applied in those cases where discretionary orders of the Court are claimed, such as specific performance, permanent or temporary injunction, appointment of receiver etc. These principles are also applied in the writ petitions filed under Articles [32](#) and [226](#) of Constitution of India. In such cases, Courts can still refuse relief where the delay on the petitioner's part has prejudiced the respondent even though the petitioner might have come to Court within the period prescribed by the Limitation Act.

38. Likewise, if a party having a right stands by and sees another acting in a manner inconsistent with that right and makes no objection while the act is in progress he cannot afterwards complain. This

principle is based on the doctrine of acquiescence implying that in such a case party who did not make any objection acquiesced into the alleged wrongful act of the other party and, therefore, has no right to complain against that alleged wrong.

39. Thus, in those cases where period of limitation is prescribed within which the action is to be brought before the Court, if the action is not brought within that prescribed period the aggrieved party loses remedy and cannot enforce his legal right after the period of limitation is over. Likewise, in other cases even where no limitation is prescribed, but for a long period the aggrieved party does not approach the machinery provided under the law for redressal of his grievance, it can be presumed that relief can be denied on the ground of unexplained delay and laches and/or on the presumption that such person has waived his right or acquiesced into the act of other. As mentioned above, these principles as part of equity are based on principles relatable to sound public policy that if a person does not exercise his right for a long time then such a right is non-existent.”

In view of the above, the instant petitions are dismissed on merits as well as on delay.

14.03.2019
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No