

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

CM-827-LPA-2022 in/and LPA-323-2022 (O&M)

Date of decision : 15.11.2022

Mohinder Nath Nagpal

.....Appellant

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present: Ms. Ritu Pathak, Legal Aid Counsel,
for the appellant.

RAVI SHANKER JHA, CHIEF JUSTICE (Oral)

CM-827-LPA-2022

For the reasons set out in the application, duly supported by
an affidavit, delay of 21 days in filing the appeal is condoned.

Application is, accordingly, allowed.

LPA-323-2022

This appeal has been filed by the appellant being aggrieved
by an order and judgment dated 07.09.2021 passed by the learned Single
Bench dismissing CWP No. 17459 of 2021, wherein the appellant had
claimed release of one last increment and thereafter re-calculation of his
pension.

From the facts of the case, it is evident that the appellant
retired from the post of Accounts Officer on 30.06.2009. Learned counsel

for the appellant submits that the appellant should have been granted one last increment, which became due to him on 01.07.2009, i.e. after his superannuation. Learned counsel further submits that after awarding such an increment, the appellant's pension should have been re-calculated, but as the authorities had not done so, he was constrained to file writ petition before this Court in August, 2021.

Learned Single Bench has dismissed the petition on the ground that it was filed after a delay of more than 12 years.

Learned counsel for the appellant submits that as the claim involved in the writ petition relates to pension, therefore, it is a continuing cause of action, and the learned Single Bench has erred in dismissing the petition on the ground of delay and laches.

Having heard learned counsel for the appellant and perused the record, we are of the considered opinion that the argument of learned counsel for the appellant does not deserve to be accepted, solely on the ground that the instant case does not relate to non-disbursement of pension, but essentially it relates to claiming of one last increment by the appellant. Thus, unless and until the increment is not awarded to the appellant, the question of revising the pension would not arise. From the facts of the case, it is further evident that till 30.06.2009, when the appellant superannuated from the post of Accounts Officer, the last increment was not due to him, and the same became due only on 01.07.2009, i.e. after his superannuation.

Quite apart from the above, it is further clear that the appellant did not agitate his claim for awarding last increment from July, 2009 till August, 2021, though it is stated that in the interregnum, certain representations were filed by him. It was for the first time in August,

2021, when the appellant filed writ petition for the aforesaid relief. It is a settled proposition of law that the petitions suffering from such a long, inordinate and unexplained delay cannot be entertained, as has been held by the Supreme Court in the case of **Union of India and others Vs. N. Murugesan and others, (2022) 2 SCC 25**, wherein it has referred to the decisions in the cases of: **U.P. Jal Nigam Vs. Jaswant Singh, (2006) 11 SCC 464**; **State of Karnataka Vs. S.M. Kotrayya, (1996) 6 SCC 267**; **Jagdish Lal Vs. State of Haryana, (1997) 6 SCC 538**; **Union of India Vs. Virpal Singh Chauhan, (1995) 6 SCC 684**; **Union of India Vs. C.K. Dharagupta, (1997) 3 SCC 395**; **State of W.B. Vs. Tarun K. Roy (2004) 1 SCC 347**; **State of W.B. Vs. Debdas Kumar, 1991 Supp (1) SCC 138**; **Eastern Coalfields Ltd. Vs. Dugal Kumar, (2008) 14 SCC 295**; **Tilokchand Motichand Vs. H.B. Munshi, (1969) 1 SCC 110**; **Rabindranath Bose Vs. Union of India, (1970) 1 SCC 84**; **State of J&K Vs. R.K. Zalpuri, (2015) 15 SCC 602**; **City & Industrial Development Corpn. Vs. Dosu Aardeshir Bhiwandiwalla, (2009) 1 SCC 168**; **Karnataka Power Corpn. Ltd. Vs. K. Thangappan, (2006) 4 SCC 322**; **State of M.P. Vs. Nandlal Jaiswal, (1986) 4 SCC 566**; **State of Maharashtra Vs. Digambar, (1995) 4 SCC 683**; **Chennai Metropolitan Water Supply & Sewerage Board Vs. T.T. Murali Babu, (2014) 4 SCC 108**; **Tukaram Kana Joshi Vs. MIDC, (2013) 1 SCC 353**; **Durga Prashad Vs. Controller of Imports & Exports, (1969) 1 SCC 185**; **LAO Vs. Katiji, (1987) 2 SCC 107**; **Dehri Rohtas Light Railway Co. Ltd. Vs. District Board, Bhojpur, (1992) 2 SCC 598**; **Dayal Singh Vs. Union of India, (2003) 2 SCC 593**; and **Shankara Coop. Housing Society Ltd. Vs. M. Prabhakar, (2011) 5 SCC 607**. In such circumstances, the order and judgment passed by the learned Single Bench dismissing the petition

filed by the appellant on the ground of delay and laches does not suffer from manifest illegality or perversity requiring interference by this Court in the Letters Patent Appeal.

The appeal being bereft of merit is, accordingly, dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

November 15, 2022
ndj

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No