

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

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CWP-16442-2023

Date of Decision: 01.08.2023

Kulwant Singh and others

.... Petitioners

Versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Harnek Singh, Advocate
for the petitioners.

Mr. Vishnav Gandhi, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to grant the petitioners grade pay of Rs.3000/- instead of 2800/- as per notification dated 27.05.2009 (Annexure P-1).

2. The petitioners admittedly attains superannuation on 31.03.2011. The petitioners were granted selection scale and placed in the grade pay of 5910-20,200 + 2800/-, vide order dated 30.10.2009 in terms of the order passed by the Director State Transport, Punjab dated 23.10.2009. The petitioners did not raise any objections with regard to grade pay, however, now after having retired in 2011, has filed this writ petition in 2023 claiming that the grade pay granted to him in 2009 should have been 3,000/- instead of 2800/-. No explanation has come forward for filing the writ petition after a long delay. Even the representations which have been placed on record are of 2020 i.e. after 9 years of retirement. Thus, it is a

case of gross latches and delay.

3. In PEPSU Road Transport Corporation, Patiala through its Managing Director & Anr. Versus S.K.Sharma and others (2016) 9 SCC 206 while dealing with PEPSU Road Transport Corporation, Patiala vs. Mangal Singh and others reported in (2011) 11 SCC 702, the Apex Court has held as under:-

8. "Since most of the respondents in that case also had retired after serving for several years since the enforcement of Regulations of 1992 and had advanced claim for pension after accepting CPF etc., in para 52 this Court counted the delay of about eight years from the introduction of pension scheme in 1992 and held such delay was unreasonable. On that basis it has been urged on behalf of appellants that through amendment made in 1998 the respondents gave up their claim for pension under the Regulations of 1992 and instead claimed pensionary rights by indirectly mounting a challenge to the decision of the State Government evident from letter dated 16.10.1956, merging PEPSU Roadways with the Corporation. Their claim of being in the employment of State and to have suffered the effect of States Reorganization Act and merger of PEPSU State with the State of Punjab on 01.11.1956 was clearly a claim made after unusual delay of several decades and the High Court should not have condoned such delay."

4. In Swamy Vivekanandha College of Arts and Science versus The Member Secretary, Town and Country Planning, Thanjavur Local Planning Authority reported in 2014 SCC Online Mad 6499 it has been held as under:-

"17. In New Delhi Municipal Council v. Pan Singh [(2007) 9 SCC 278], this Court held:

"16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition

after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction.

18. Although, there is no period of limitation provided for filing a writ petition under Article 226 of the Constitution of India, ordinarily, writ petition should be filed within a reasonable time.”

5. In **Virender Chaudhary v. Bharat Petroleum Corporation** (2009) 1 SCC 297, the Apex Court has held as under:-

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The High Court, however, in our opinion failed to take into consideration the effect of delay and laches on the part of the appellant in approaching the High Court. A writ remedy is a discretionary remedy. The court exercises its jurisdiction only upon satisfying itself that it would be equitable to do so. Delay and/or laches, indisputably, are the relevant factors.

15. The Superior Courts, times without number, applied the equitable principles for not granting a relief and/or a limited relief in favour of the applicant in a case of this nature. While doing so, the court although not oblivious of the fact that no period of limitation is provided for filing a writ petition but emphasize is laid that it should be filed within a reasonable time. A discretionary jurisdiction under Article 226 of the Constitution of India need not be

exercised if the writ petitioner is guilty of delay and latches.”

6. In view of the law laid down by the Apex Court in **PEPSU’s case (supra)**, **Virender Chaudhary’s case (supra)** and **Swamy Vivekanandha College of Art’s case (supra)**, the present petition suffers from gross latches and delay and is, accordingly, dismissed.

01.08.2023

D.Bansal

(SANJEEV PRAKASH SHARMA)
JUDGE

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