

CWP-19159-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-19159-2023
Date of Decision: 08.11.2023

Sripal

...Petitioner

Versus

Director General Defence Estates and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Vijay Deep Rathee, Advocate for the petitioner
Mr. Dhiraj Chawla, Advocate for the respondents

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondent Nos.2 and 3 for considering his case for appointment for the post of *Safaiwala*.
2. Learned counsel for the respondents, at the outset, submits that petitioner participated in the selection process and was not selected. The selection process took place from 20.01.2018 to 02.02.2018. The result was published on 05.02.2018. The petitioner has enclosed representations with the petition which have been created at a later stage and respondent has never received these representations. The writ petition is hopelessly barred by general principles of limitation.

3. On being asked to explain the reason of delay, learned counsel for the petitioner simply submitted that petitioner was pursuing the matter with the respondents.

4. The contention of learned counsel for the petitioner that he was pursuing the matter with respondents is strongly opposed by learned counsel for the respondents on the ground that respondents have never received any communication from the petitioner and from the contents of the representations, it is evident that representations have been prepared at a later stage to create a cause of action.

5. No hard-and-fast rule can be laid down as to when the High Court should refuse to exercise its jurisdiction in favour of a party who moves it after considerable delay and is otherwise guilty of laches. Discretion must be exercised judiciously and reasonably. In the event that the claim made by the applicant is legally sustainable, delay should be condoned. Where illegality is manifest, it cannot be sustained on the sole ground of laches. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred. State cannot deprive vested right because of a non-deliberate delay.

6. In ***Eastern Coalfields Ltd. v. Dugal Kumar (2008) 14 SCC 295***, the Apex Court has considered scope of interference in case of delay and laches. The Court has held:

“24. As to delay and laches on the part of the writ petitioner, there is substance in the argument of learned

counsel for the appellant Company. It is well settled that under Article 226 of the Constitution, the power of a High Court to issue an appropriate writ, order or direction is discretionary. One of the grounds to refuse relief by a writ court is that the petitioner is guilty of delay and laches. It is imperative, where the petitioner invokes extraordinary remedy under Article 226 of the Constitution, that he should come to the court at the earliest reasonably possible opportunity. Inordinate delay in making the motion for a writ is indeed an adequate ground for refusing to exercise discretion in favour of the applicant.”

7. In ***Tilokchand Motichand v. H.B. Munshi, (1969) 1 SCC 110*** and ***Rabindranath Bose v. Union of India (1970) 1 SCC 84***, the Apex Court has ruled that even in cases of violation or infringement of fundamental rights, a writ court may take into account delay and laches on the part of the petitioner in approaching the court and if there is gross or unexplained delay, the court may refuse to grant relief in favour of such petitioner.

8. In ***Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu (2014) 4 SCC 108***, the Apex Court has ruled:

“16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without

adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant—a litigant who has forgotten the basic norms, namely, ‘procrastination is the greatest thief of time’ and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.’

9. In the wake of above discussion and findings, this Court is of the considered opinion that the present petition being hit by delay and laches deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

08.11.2023
Mohit Kumar

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