

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

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CWP-28565-2023

Date of Decision: 19.12.2023

Mukesh Kumar**...Petitioner****Versus****State of Punjab and others****...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Ms. Meenu Salwan, Advocate for the petitioner

Mr. Aman Dhir, DAG, Punjab

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking directions to respondents to fix the pay of the petitioner in terms of instructions dated 21.10.1998 (Annexure P-1) read with audit note dated 21.08.2009 (Annexure P-2).

2. The petitioner is seeking re-fixation of his pay w.e.f. 01.03.1996. The petitioner with respect to his grievance made a representation before the competent authority. The said representation was rejected in 2013 and in this regard, a communication was made to petitioner on 18.07.2013. The petitioner did not assail the said communication.

3. On being asked the reason of delay, learned counsel for the petitioner, except to say that petitioner had made representation during the intervening period, could not advance any plausible reason for the aforesaid delay of more than ten years.

4. The petitioner may be entitled to re-fixation of pay w.e.f 01.03.1996, however, this Court cannot ignore the fact that petitioner without any plausible reason retained himself from assailing communication dated 18.07.2013 whereby claim of the petitioner was rejected by competent authority.

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, 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 discussions & findings, this Court is of the considered opinion that the present petition being hit by doctrine of delay and laches deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

19.12.2023
Mohit Kumar

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