

LPA-1811-2024 (O&M)

- 1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

116

LPA-1811-2024 (O&M)
Date of Decision: 05.08.2024.

Kamlesh Tuteja ...Appellant.
Versus
State of Punjab and othersRespondents.

CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Varlin Garg, Advocate
for the petitioner.

Mr. R.S. Pandher, Sr. DAG, Punjab.

Mr. Abhilaksh Gaind, Advocate
for respondents No.2 and 3.

LISA GILL, J. (Oral)

1. Prayer in this appeal is for setting aside order dated 12.03.2024 passed by learned Single Bench whereby CWP-5671-2024 filed by appellant/ writ petitioner was dismissed.
2. Brief facts necessary for adjudication of the appeal are that appellant/ writ petitioner filed above said writ petition seeking a direction to the respondents to release the incorrectly deducted amount of Rs.75,720/- qua arrears related to pay fixation.
3. Appellant/ writ petitioner, it is pleaded, joined respondent-Corporation on 13.09.1968 and retired on 30.04.2010 on attaining the age of

LPA-1811-2024 (O&M)

- 2-

superannuation. Gratuity amount was released to appellant/ writ petitioner in terms of notification dated 17.08.2009 issued by State of Punjab wherein maximum limit of gratuity was enhanced to Rs.10,00,000/-. However, in terms of subsequent memo dated 05.07.2010 it was directed that in case Payment of Gratuity Act, 1972 was applicable to employees working under various original authority apex corporative bodies, the same be implemented from the date of implementation by the Central Government i.e. 24.05.2010. Recovery of the amount purportedly paid in excess was sought to be made. Recovery notice was issued and a sum of Rs.75,720/- was deducted and a civil suit for recovery of remaining amount of Rs.5,74,280/- was filed by respondent-corporation. That suit was dismissed vide judgment dated 29.09.2015 by learned trial Court while concluding that payment was correctly made as per the resolution in question. Appeal filed by respondent-corporation was dismissed by the Appellate Court vide judgment dated 15.05.2017. RSA-1222-2019 filed by respondent-corporation challenging the concurrent findings of facts by learned civil Courts was dismissed on 11.10.2023. Appellant/ writ petitioner is stated to have thereafter filed representations for release of amount of Rs.75,720/- which was stated to have been incorrectly deducted. Representation dated 24.07.2017 and 11.05.2023 (reminder) were attached collectively as Annexure P6 with the writ petition. Thereafter, legal notice dated 25.01.2024 is stated to have been issued by the appellant.

4. As no action was being taken, appellant filed CWP-5671-2024 which was however dismissed by learned Single Bench on 12.03.2024 on

LPA-1811-2024 (O&M)

- 3-

account of delay and laches on the part of appellant. It is observed in order dated 12.03.2024 that appellant chose to keep silent for long years even after his retirement. No ground for interference was found. Aggrieved therefrom present appeal has been filed.

5. Learned counsel for the appellant vehemently argued that deduction of Rs.75,720/- was carried out in an absolutely illegal and arbitrary manner, without even issuing notice to the appellant. Appellant had submitted representation dated 11.05.2023 and thereafter legal notice dated 25.01.2024 which were not responded to by the respondent-Corporation. Appellant was diligently pursuing the matter and it is not as if he was sitting quietly. Therefore, appellant is entitled to refund of Rs.75,720/-. It is therefore prayed that this appeal be allowed and CWP-5671-2024 filed by the appellant be allowed as prayed for.

6. We have heard learned counsel for appellant/ writ petitioner and have perused the file with his able assistance. However, we do not find any ground for setting aside order dated 12.03.2024. It is undeniable that mere submission of representation/ legal notice by a party cannot be a ground for pleading fresh cause of action to overcome delay and laches. It has been consistently held by Hon'ble the Supreme Court as well as this High Court that in service matters such delay and laches may be a sign of acquiescence i.e. acceptance whether tacit or passive and is not to be countenanced. Gainful reference in this regard can be made to judgments of Hon'ble the Supreme Court in *State of Orissa and another vs. Laxmi Narayan Das (Dead) through LRs and others, 2023 LiveLaw (SC) 527* and

Bichitrananda Behera vs. State of Orissa and others 2023 AIR (SCC) 5064.

7. In this factual matrix learned Single Judge has correctly held the claim raised by appellant to be hit by delay and laches.
8. No other argument has been addressed.
9. Learned counsel for appellant in unable to point out any illegality, infirmity or irregularity in the impugned order dated 12.03.2024, passed by learned Single Judge.
10. Keeping in view the facts and circumstances as above, this appeal is dismissed with on order as to cost.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

05.08.2024.
komal

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