

CWP-19032 of 2023

2024:PHHC:073946



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

CWP-19032 of 2023

Date of decision: 23.05.2024

Balwinder Singh

.....Petitioner

Versus

Punjab State Power Corporation Limited/PSPCL and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Kanwaljeet Singh, Advocate,
for the petitioner.

Ms. Eknoor Kaur Sara, Advocate,
for the respondents.

NAMIT KUMAR, J.

1. Instant writ petition has been filed by the petitioner under Article 226 of the Constitution of India for issuance of a writ of *certiorari* for quashing the order dated 10.04.2014 (Annexure P-4) whereby punishment of stoppage of two annual increments with future effect has been imposed upon the petitioner. Further prayer has been made to decide the legal notice dated 25.05.2023 (Annexure P-6) in a time-bound manner.

2. Brief facts of the case are that the petitioner joined the services of the erstwhile Punjab State Electricity Board (now Punjab State Power Corporation Limited) on 01.10.1985 as Lineman and he was further promoted to the post of Junior Engineer on 01.02.2005 and retired on 02.02.2018. While he was in service and was performing the



duties as Junior Engineer at DS City Sub Division Dhuri, he was issued charge-sheet dated 08.09.2010 wherein it was found that during the investigation that M/s Perfect Pipe Fitting Company on 20.02.2009 had applied in Sub Division Dhuri Rural for connection of 349.900 KW load from Category-2 feeder, but Sub Division Dhuri Rural had transferred the case to Sub Division City Dhuri vide letter dated 06.04.2009 and instead of seeking required clearance from the Forest Department, by making the revised estimate and without approval of the competent authority, connection was released from 11 KV Bhasaur Category-1 feeder under the Sub Division Dhuri Rural and petitioner was responsible for this act. Petitioner submitted reply to the charge-sheet on 25.04.2011, which was found to be unsatisfactory and Inquiry Officer was appointed and during inquiry, charges were proved against the petitioner and finally punishment of stoppage of two annual increments with future effect was awarded vide order dated 10.04.2014 against which the petitioner filed an appeal, which was rejected by the appellate authority vide order dated 05.08.2015. Thereafter, petitioner served legal notice dated 25.05.2023 upon the respondents, but to no avail. Hence, the present writ petition.

3. On issuance of notice of motion, short reply on behalf of the respondents has been filed wherein factual position as narrated above has not been disputed.

4. Learned counsel for the petitioner contended that while awarding the punishment of stoppage of two annual increments with future effect vide order dated 10.04.2014, comments/remarks made by



respondent No.7 have not been considered and no rules, regulations, instructions have been quoted under which alleged violations have been referred while framing the chargesheet against the petitioner and the punishment order is not speaking one.

5. On the other hand, learned counsel for the respondents has submitted that instant petition is liable to be dismissed on the ground of delay and laches as the punishment order dated 10.04.2014 has been challenged in the present writ petition by filing the same in the month of August, 2023 after a delay of more than 09 years and 04 months. She further submitted that neither the petitioner has attached the order dated 05.08.2015 passed by the appellate authority rejecting the appeal of the petitioner nor the same has been impugned in the present writ petition. She further submitted that punishment of stoppage of two annual increments with future effect has been awarded to the petitioner after following the due procedure of law. She further submitted that the instant petition is also liable to be dismissed on account of concealment of material facts as the petitioner has not stated in the petition that after the reply to the chargesheet was filed by the petitioner, inquiry officer was appointed who conducted the inquiry and supplied copy of the chargesheet to the petitioner and after following the due procedure the punishment has been awarded.

6. I have heard learned counsel for the parties and perused the record.

7. Admittedly, the order of punishment was passed on 10.04.2014 and petitioner filed the appeal against the said punishment



order, which was rejected by the appellate authority vide order dated 05.08.2015. The said order has neither been attached nor impugned in the present writ petition. The writ petition has been filed after a period of 09 years and 04 months from the date of passing of the punishment order and after 08 years of the passing of the order by the appellate authority.

8. This Court in ***Nathu Ram Sharma and another v. State of Punjab and others, 2015(2) S.C.T. 631*** while considering the question of delay has held as under: -

“3. Admittedly, the present writ petition has been filed in September 2010 i.e. after a delay of 6 years. A perusal of the writ petition offers no justifiable explanation for the delay except that in the case of similarly situated persons, there is an order of this Court in their favour.

4. It seems that the petitioners slept over their rights for over 6 years and woke up only when they came to know that similarly situated persons have been granted relief by this Court.

*5. On the issue of rejection of stale claims, the Apex Court in the case of **Chennai Metropolitan Water Supply and Sewerage Board and others v. T. T. Murali Babu reported as 2014 (2) S.C.T. 193** has held as under :-*

*"13. First, we shall deal with the facet of delay. In **Maharashtra State Road Transport Corporation v. Balwant Regular Motor Service, Amravati and others [AIR 1969 Supreme Court 329]** the Court referred to the principle that has been stated by Sir Barnes Peacock in **Lindsay Petroleum Co. v. Prosper Armstrong Hurd, Abram Farewall, and John Kemp [1874 (5) PC 221]**, which is as follows :*



"Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy."

14. In State of Maharashtra v. Digambar [1995(3) R.R.R 567 : 1995 (4) SCC 683], while dealing with exercise of power of the High Court under Article 226 of the Constitution, the Court observed that power of the High Court to be exercised under Article 226 of the Constitution, if is discretionary, its exercise must be judicious and reasonable, admits of no controversy. It is for that reason, a



person's entitlement for relief from a High Court under Article 226 of the Constitution, be it against the State or anybody else, even if is founded on the allegation of infringement of his legal right, has to necessarily depend upon unblameworthy conduct of the person seeking relief, and the court refuses to grant the discretionary relief to such person in exercise of such power, when he approaches it with unclean hands or blameworthy conduct.

15. In State of M.P. and others etc. etc. v. Nandlal Jaiswal and others etc. etc. [AIR 1987 Supreme Court 251] the Court observed that it is well settled that power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. It has been further stated therein that if there is inordinate delay on the part of the petitioner in filing a petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. Emphasis was laid on the principle of delay and laches stating that resort to the extraordinary remedy under the writ jurisdiction at a belated stage is likely to cause confusion and public inconvenience and bring in injustice.

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. In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinise whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others



into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons - who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."

6. The above view of the Apex Court was followed in a recent judgment rendered by this Court in Suraj Mal v. State of Haryana reported as 2015 (1) SCT 31, wherein it has been held as under :-

"9. In view of the above authoritative enunciation of law by Hon'ble the Supreme Court and this Court, the present writ petition filed by the petitioner nearly after 9 years of his retirement to claim certain benefits, which may be due to him while in service, certainly deserves to be dismissed on account of delay and laches as there is no satisfactory explanation available for delay."

7. The benefits of a decision rendered in the case of similarly placed persons cannot straightway be given to a person, who himself approaches the Court belatedly. For getting relief from the Court, he is required to satisfactorily explain the delay on his part in approaching the Court.

8. In this regard, it would be useful to refer to the following observations made by the Apex Court in the case of Chairman, U. P. Jal Nigam and another v. Jaswant Singh and another reported as 2007(1) S.C.T. 224 : 2006 (11) SCC 464 :-



"6. The question of delay and laches has been examined by this Court in a series of decisions and laches and delay has been considered to be an important factor in exercise of the discretionary relief under Article 226 of the Constitution. When a person who is not vigilant of his rights and acquiesces with the situation, can his writ petition be heard after a couple of years on the ground that same relief should be granted to him as was granted to person similarly situated who was vigilant about his rights and challenged his retirement which was said to be made on attaining the age of 58 years. A chart has been supplied to us in which it has been pointed out that about 9 writ petitions were filed by the employees of the Nigam before their retirement wherein their retirement was somewhere between 30.6.2005 and 31.7.2005. Two writ petitions were filed wherein no relief of interim order was passed. They were granted interim order. Thereafter a spate of writ petitions followed in which employees who retired in the years 2001, 2002, 2003, 2004 and 2005, woke up to file writ petitions in 2005 & 2006 much after their retirement. Whether such person should be granted the same relief or not?

7. Learned senior counsel for the appellants has invited our attention to various decisions to impress upon that persons who are guilty of such laches and acquiesced with the situation should not be granted any relief because it is going to cost the Nigam a heavy financial burden to the tune of L 17,80,43,108/-. Therefore, relief should be confined to those persons who were continuing in service and filed their writ petitions in time but not to all and



sundry who woke up to file the writ petitions much after their retirement. In this connection, our attention was invited to a decision of this Court in the case of M/s. Rup Diamonds & Ors. v. Union of India & Ors., reported in (1989) 2 SCC 356, wherein their Lordships observed that those people who were sitting on the fence till somebody else took up the matter to the court for refund of duty, cannot be given the benefit. In that context, their Lordships held as follows:

"Petitioners are re-agitating claims which they had not pursued for several years. Petitioners were' not vigilant but were content to be dormant and chose to sit on the fence till somebody else's case came to be decided. Their case cannot be considered on the analogy of one where a law had been declared unconstitutional and void by a court, so as to enable persons to recover monies paid under the compulsion of a law later so declared void. There is also an unexplained, inordinate delay in preferring the present writ petition which is brought after a year after the first rejection. As observed by the Court in Durga Prashad case, the exchange position of this country and the policy of the Government regarding international trade varies from year to year. In these matters it is essential that persons who are aggrieved by orders of the Government should approach the High Court after exhausting the remedies provided by law, rule or order with utmost expedition.

2024:PHHC:073946



Therefore, these delays are sufficient to persuade the Court to decline to interfere. If a right of appeal is available, this order rejecting the writ petition shall not prejudice petitioners' case in any such appeal."

8. *Our attention was also invited to a decision of this Court in the case of State of Karnataka & Ors. v. S.M. Kotrayya & Ors., reported in 1997(1) SCT 359 (SC) : (1996) 6 SCC 267. In that case the respondents woke up to claim the relief which was granted to their colleagues by the Tribunal with an application to condone the delay. The Tribunal condoned the delay. Therefore, the State approached this Court and this Court after considering the matter observed as under: "Although it is not necessary to give an explanation for the delay which occurred within the period mentioned in sub-section (1) or (2) of Section 21, explanation should be given for the delay which occasioned after the expiry of the aforesaid respective period applicable to the appropriate case and the Tribunal should satisfy itself whether the explanation offered was proper. In the instant case, the explanation offered was that they came to know of the relief granted by the Tribunal in August 1989 and that they filed the petition immediately thereafter. That is not a proper explanation at all. What was required of them to explain under sub-sections (1) and (2) was as to why they could not avail of the remedy of redressal of their grievances before the expiry of the period prescribed under subsection (1) or (2). That was not the explanation given. Therefore, the Tribunal was wholly unjustified in condoning the delay."*

9. *Similarly, in the case of Jagdish Lal & Ors. v. State of Harvana & ors., reported in 1998(1) SCT 26 (SC) : (1997) 6 SCC 538, this Court reaffirmed the rule if a person*



chose to sit over the matter and then woke up after the decision of the Court, then such person cannot stand to benefit. In that case it was observed as follows:

"The delay disentitles a party to discretionary relief under Article 226 or Article 32 of the Constitution. The appellants kept sleeping over their rights for long and woke up when they had the impetus from Vir Pal Singh Chauhan case. The appellants' desperate attempt to redo the seniority is not amenable to judicial review at this belated stage."

10. In the case of Union of India & Ors. v. C. K. Dharagupta & Ors., reported in 1997(2) SCT 117 (SC) : (1997) 3 SCC 395, it was observed as follows:

"We, however, clarify that in view of our finding that the judgment of the Tribunal in R.P. Joshi gives relief only to Joshi, the benefit of the said judgment of the Tribunal cannot be extended to any other person. The respondent C.K. Dharagupta (since retired) is seeking benefit of Joshi case. In view of our finding that the benefit of the judgment of the Tribunal dated 17-3-1987 could only be given to Joshi and nobody else, even Dharagupta is not entitled to any relief."

11. In the case of Government of W.B. v. Tarun K. Roy & Ors., reported in 2004(1) SCT 78 (SC) : (2004) 1 SCC 347, their Lordships considered delay as serious factor and have not granted relief. Therein it was observed as follows :

"The respondents furthermore are not even entitled to any relief on the ground of gross delay and laches on their part in filing the writ petition. The first two writ petitions were filed in the year 1976 wherein the respondents herein approached the



High Court in 1992. In between 1976 and 1992 not only two writ petitions had been decided, but one way or the other, even the matter had been considered by this Court in Debdas Kumar. The plea of delay, which Mr. Krishnamani states, should be a ground for denying the relief to the other persons similarly situated would operate against the respondents. Furthermore, the other employees not being before this Court although they are ventilating their grievances before appropriate courts of law, no order should be passed which would prejudice their cause. In such a situation, we are not prepared to make any observation only for the purpose of grant of some relief to the respondents to which they are not legally entitled to so as to deprive others there from who may be found to be entitled thereto by a court of law."

12. The statement of law has also been summarised in Halsbury's Laws of England, Para 911, pg. 395 as follows: "In determining whether there has been such delay as to amount to laches, the chief points to be considered are :

- (i) acquiescence on the claimant's part; and*
- (ii) any change of position that has occurred on the defendant's part. Acquiescence in this sense does not mean standing by while the violation of a right is in progress, but assent after the violation has been completed and the claimant has become aware of it. It is unjust to give the claimant a remedy where, by his conduct, he has done that which might fairly be regarded as equivalent to a waiver of it; or where by his conduct and neglect, though not waiving the remedy, he has put the other party in a*



position in which it would not be reasonable to place him if the remedy were afterwards to be asserted. In such cases lapse of time and delay are most material. Upon these considerations rests the doctrine of laches."

13. In view of the statement of law as summarised above, the respondents are guilty since the respondents has acquiesced in accepting the retirement and did not challenge the same in time. If they would have been vigilant enough, they could have filed writ petitions as others did in the matter. Therefore, whenever it appears that the claimants lost time or while away and did not rise to the occasion in time for filing the writ petitions, then in such cases, the Court should be very slow in granting the relief to the incumbent. Secondly, it has also to be taken into consideration the question of acquiescence or waiver on the part of the incumbent whether other parties are going to be prejudiced if the relief is granted. In the present case, if the respondents would have challenged their retirement being violative of the provisions of the Act, perhaps the Nigam could have taken appropriate steps to raise funds so as to meet the liability but by not asserting their rights the respondents have allowed time to pass and after a lapse of couple of years, they have filed writ petitions claiming the benefit for two years. That will definitely require the Nigam to raise funds which is going to have serious financial repercussion on the financial management of the Nigam. Why the Court should come to the rescue of such persons when they themselves are guilty of waiver and acquiescence." [Emphasis supplied by me]."

9. Further, a Division Bench of this Court in **Ram Kumar v.**

State of Haryana and others, 2022(3) S.C.T. 346 has held as under: -



“9. Further, reliance placed upon an order and judgment dated 18.05.2009 (P-6), and a decree dated 22.05.2014, passed by the Civil Court, Kurukshetra, whereby the suit filed by certain Conductors was decreed, would not advance the case of the appellant either. For, we are in complete agreement with the conclusion recorded by the learned single Judge that the petition filed by the appellant suffered from gross, inordinate and unexplained delay of 24 years, in approaching this Court.

10. What we wish to emphasize, in particular, is that services of the appellant were regularized w.e.f. 01.04.1997. And, he was assigned a specific seniority position in the cadre. Whereafter, he continued to serve the department for nearly twenty five years, before attaining the age of superannuation in January, 2022. Needless to assert that during all these years, he availed all admissible benefits, promotions, and retired as Inspector. Thus, it rather appears that institution of the petition by the appellant was speculative and an attempt to resurrect a stale and dead claim. The Supreme Court, in New Delhi Municipal Council v. Pan Singh & Ors., 2007(9) SCC 278, observed:

"15. There is another aspect of the matter which cannot be lost sight of. 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. See Govt. of W.B. v. Tarun K. Roy And Others [(2004) 1 SCC 347], Chairman, U.P. Jal Nigam & Anr. v. Jaswant Singh And Anr. [2006 (12) SCALE 347] and Karnataka Power Corpn. Ltd. through its Chairman & Managing Director and Another v. K. Thangappan and Another [(2006) 4 SCC 322]"

11. Similarly, in Jagdish Lal & Ors. v. State of Haryana & Ors., (1997) 6 SCC 538, it was held by the Supreme Court:

"That apart, as this Court has repeatedly held, the delay disentitles the party to the discretionary relief under Article 226 or 32 of the Constitution. It is not necessary to reiterate all catena of precedents in this behalf. Suffice it to state that the appellant kept sleeping over their rights for long and elected to wake up when they had the impetus from Vir Pal Chauhan and Ajit Singh's ratios..... Therefore, desperate attempts of the appellants to re-do the seniority had by them in various cadres/grades though in the same services according to 1974 Rules or 1980 Rule, are not amenable to judicial review at this belated stage...."

12. In the wake of the position as sketched out above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned single Judge. The appeal being bereft of merit is, accordingly, dismissed."

CWP-19032 of 2023

2024:PHHC:073940



10. Another reason for which no relief can be granted to the petitioner is that order dated 05.08.2015 passed by the appellate authority has neither been attached nor impugned in the present writ petition.

11. In view of the above, finding no merit in the present petition, same is hereby dismissed on account of delay and laches.

23.05.2024
R.S.

(NAMIT KUMAR)
JUDGE

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