



CWP-27841-2024

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

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CWP-27841-2024

Date of decision: 18.10.2024

SARBJIT SINGH

....PETITIONER

Vs.

STATE OF PUNJAB AND ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. G.P. Vashisht, 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 setting aside of order dated 18.10.2004 (Annexure P-2) whereby his five years' approved service was forfeited on permanent basis and order dated 25.06.2007 (Annexure P-4) whereby Appellate Authority dismissed his appeal.

2. The petitioner was subjected to punishment of 5 years' forfeiture of service for annual increment by order dated 18.10.2004. He at that point of time was Constable. He preferred an appeal which came to be dismissed on the ground of delay as well as on merits. The impugned order was passed on 25.06.2007 and instant petition is filed before this Court after 17 years. The petitioner retired on 17.08.2022.

3. On being asked the reason of inordinate delay, Mr. G.P. Vashisht, Advocate submits that impugned order was not served upon him.



4. 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, claim 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.

5. In **Eastern Coalfields Ltd. v. Dugal Kumar (2008) 14 SCC 295**, Supreme Court has considered scope of interference in case of delay and laches. 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.”

6. In **Tilok Chand Moti Chand v. H.B. Munshi (1969) 1 SCC 110** and **Rabindranath Bose v. Union of India (1970) 1 SCC 84**, Supreme 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.

7. In **Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu (2014) 4 SCC 108**, Supreme 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.’

8. In **Union of India v. N. Murugesan, (2022) 2 SCC 25**, court has observed that a neglect on the part of a party to do an act which law requires, must stand in his way for getting the relief or remedy. The Court laid down two essential factors i.e. first, the length of the delay and second, the developments



during the intervening period. Delay in availing the remedy would amount to waiver of such right. Relevant extracts of the judgment read as:

“20. The principles governing delay, laches, and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct elements. One can say that delay is the genus to which laches and acquiescence are species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create non-consideration of condonation in certain circumstances. They are bound to be applied by way of practice requiring prudence of the court than of a strict application of law. The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the court.

21. The word “laches” is derived from the French language meaning “remissness and slackness”. It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.

22. Two essential factors to be seen are the length of the delay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change in position in the interregnum.



Therefore, it would be unjustifiable for a Court of Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy.”

9. There is no substance in the contention of the petitioner. It is highly improbable to believe that petitioner was subjected to major penalty and he was not aware of the outcome of appeal. It is apt to notice that appeal itself was dismissed on the ground of delay apart from merits. He had retired on 17.08.2022 after attaining age of 55 years. At the time of retirement, he was Assistant Sub Inspector (Local Rank). He remained silent for 2 years’ even after retirement.

10. In the wake of above-referred judgments and considering inordinate delay on the part of petitioner, this Court does not find it appropriate to invoke its extra-ordinary writ jurisdiction. The present petition deserves to be dismissed and accordingly dismissed.

18.10.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

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