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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-74-2024
Date of Decision: 08.01.2024

Jagroop Singh

...Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Arjun Dev, Advocate for
Mr. Vivek K. Thakur, Advocate for the petitioner
Mr. Inderpreet Singh Kang, AAG, Punjab

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to the respondents to re-fix increment of the petitioner w.e.f. 01.01.2012 instead of 01.02.2012.
2. The case of the petitioner is that he was promoted from the post of Constable to Head Constable in 2012. The petitioner was entitled to increment w.e.f. 01.01.2012 but without seeking option from the petitioner, the respondent fixed increment of the petitioner w.e.f. 01.02.2012. Resultantly, every year, increment was extended to the petitioner w.e.f. 01st February instead of 01st January. The State Government implemented recommendations of 6th CPC w.e.f. 01.01.2016. The respondent, at that point of time also granted increment w.e.f. 01st day of February instead of 01st day of January. The petitioner retired in 2019. The petitioner came to know of this

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fact when he noticed that similarly situated retirees are getting more pension than him.

3. The petitioner indubitably was in service from 2012 to 2019. The respondent committed mistake, if any, in 2012. The petitioner continued to accept increment w.e.f. 01st day of February every year and never raised any grouse either before retirement or within reasonable period from his retirement.

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, 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. A Division Bench of this Court vide judgment dated 04.04.2018 in ***Kartar Singh v. Managing Director, HVPNL and others, CWP No.26962 of 2015***, after noticing various judgments of Apex Court has dismissed similar petition on the ground that writ petition has been filed after a long time from the date of retirement.

6. A Coordinate Bench of this Court vide order dated 03.05.2015 in ***Sandeep Kharab v. State of Haryana and others, CWP No.5965 of 2011***; order dated 04.09.2012 in ***Bal Krishan v. State of Punjab and others, CWP***

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No.18498 of 2011 and order 29.11.2012 in *Tarsem Pal v. Punjab State Power Corporation Limited and others, CWP No.13965 of 2010* has dismissed petitions on the ground that writ jurisdiction cannot be invoked at the will and convenience of the litigant. Anyone who claims rights must be vigilant and he must enforce his rights within reasonable time.

In the case in hand, the petitioner opted to remain silent from 2012 to 2019 i.e. during his service as well as 2019 to 2023 i.e. post retirement. By his act and conduct, the petitioner acquiesced to action of the respondents and waived off his right, if any.

7. In the wake of judgments of this Court 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.

(JAGMOHAN BANSAL)
JUDGE

08.01.2024
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>