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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 11789/2024**

HARSH KUMAR MALIKPetitioner

Through: Petitioner in person.

versus

PUNJAB NATIONAL BANKRespondent

Through: Mr. Rajat Arora, Advocate

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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28.08.2024

CM APPL. No. 49002/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This writ petition has been preferred by the Petitioner under Article 226 of the Constitution of India assailing order dated 17.05.2024 by which the application for review of a major penalty imposed on the Petitioner has been rejected by the Respondent.

4. The facts to the extent necessary are that Petitioner was appointed as Clerk-cum-Cashier with Punjab National Bank (PNB) on 27.10.1975. A major penalty charge sheet was issued to the Petitioner under Punjab National Bank Officer Employees' (Discipline & Appeal) Regulations, 1977 (1977 Regulations) on 29.07.2010 pursuant to which disciplinary proceedings were initiated which culminated into a major penalty of



reduction to ten stages upto his retirement i.e. 28.02.2013 with a further direction that he will not earn increments during the period of reduction and the same will have the effect of postponement of future increment vide order dated 09.03.2012. The order was upheld by the Appellate Authority on 16.12.2013 and the Petitioner superannuated on 28.02.2013.

5. As per the averments in the writ petition, Petitioner took no steps to assail the penalty order for a long time and gave a representation for the first time on 12.06.2019 and that too for rectification of an alleged error in fixation of his basic pension. Again there was silence for nearly four years after which Petitioner sent a legal notice to the Respondent on 19.01.2024, followed by a representation to the Reviewing Authority on 02.04.2024. The Reviewing Authority rejected the review petition by the impugned order dated 17.05.2024, on the ground that in terms of Regulation 18 of 1977 Regulations, Reviewing Authority has the power to review an order either on its own motion or otherwise only within six months from the date of the order of which the review is sought and that even otherwise, no cogent reason had been furnished by the Petitioner for the delay.

6. Issue notice.

7. Mr. Arora accepts notice on behalf of the Respondent and takes a preliminary objection to the maintainability of the writ petition on ground of delay and laches. It is argued that the cause of action, if any, had arisen in favour of the Petitioner on 09.03.2012 when the major penalty was imposed on him or at the highest on 16.12.2013 when the appeal filed by him was dismissed by the Appellate Authority whereas the present petition has been filed by the Petitioner in 2024 i.e. after a decade. Mr. Arora relies on an order of this Court in ***Suresh Kumar v. Government of National Capital***



Territory of Delhi & Anr., W.P.(C) 13559/2022, decided on 05.07.2024,
where it was held as follows:-

“12. It is settled that delay and laches in espousing a cause, can come in the way of a litigant who is not vigilant, even if he has a good case on merits and Courts should be reluctant in entertaining stale claims of persons, who without any reasonable explanation approach the Court with an inordinate and gross delay. Courts in their discretionary power do not ordinarily assist the indolent or lethargic persons who sleepover their rights. If a litigant fails to satisfy the Court on the inordinate delay in approaching the Court, the Court will be well justified in rejecting the claim on delay and laches.”

8. Mr. Malik, *per contra*, submits that there is no delay in approaching this Court as he was constantly following-up the matter through the Bank Retirees’ Social Welfare Organisation and had given a representation in 2019 followed by a legal notice on 19.01.2024 and a review petition on 02.04.2024, which was rejected only on 17.05.2024.

9. Heard the Petitioner who appears in person and Mr. Arora, learned counsel for PNB.

10. From the narrative of the facts in the writ petition, it is clear that a major penalty charge sheet was issued against the Petitioner on 29.07.2010 and the disciplinary proceedings culminated into imposition of a major penalty on 09.03.2012. Appeal filed against the penalty order was rejected on 16.12.2013. Thereafter, the Petitioner took no steps to assail the penalty imposed on him from 2013 upto 19.01.2024 on which date he sent a legal notice. In between, Petitioner preferred a representation on 12.06.2019 but that was only for correction of an alleged error in fixation of his basic pension. A review was filed by the Petitioner on 02.04.2024 which was rejected on ground of delay since the Reviewing Authority had the power to review the order either on its own motion or otherwise only upto six months



from the date of the order under Regulation 18 of 1977 Regulations. There is no explanation in the entire writ petition as to what the Petitioner did between 16.12.2013 to 19.01.2024 when for the first time a legal notice was sent and he cannot place reliance on filing a review petition since the same was also dismissed on ground of gross delay and therefore, there is merit in the contention of learned counsel for the Respondent that the writ petition is barred by delay and laches.

11. The law with respect to delay and laches is settled. The Supreme Court has from time to time held that those who sleep over their claims and wake up from a slumber after a long period of time are not entitled to claim any relief from the Court even if there is a good case on merit. Delay defeats equity and law helps those who are vigilant and not those who are indolent, are well-recognised principles of law.

12. In the context, I may allude to the judgment of the Supreme Court in ***Karnataka Power Corpn. Ltd. through its Chairman & Managing Director and Another v. K. Thangappan and Another***, (2006) 4 SCC 322, the relevant paragraphs of which are as under: -

“6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in *Durga Prasad v. Chief Controller of Imports and Exports* [(1969) 1 SCC 185 : AIR 1970 SC 769] . Of course, the discretion has to be exercised judicially and reasonably.

7. What was stated in this regard by Sir Barnes Peacock in *Lindsay Petroleum Co. v. Prosper Armstrong Hurd* [(1874) 5 PC 221 : 22 WR 492] (PC at p. 239) was approved by this Court in *Moon Mills Ltd. v. M.R. Meher* [AIR 1967 SC 1450] and *Maharashtra SRTC v. Shri Balwant*



Regular Motor Service [(1969) 1 SCR 808 : AIR 1969 SC 329] . Sir Barnes had stated:

“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 limitation, 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 it relates to the remedy.”

8. It would be appropriate to note certain decisions of this Court in which this aspect has been dealt with in relation to Article 32 of the Constitution. It is apparent that what has been stated as regards that article would apply, a fortiori, to Article 226. It was observed in *Rabindranath Bose v. Union of India [(1970) 1 SCC 84 : AIR 1970 SC 470]* that no relief can be given to the petitioner who without any reasonable explanation approaches this Court under Article 32 after inordinate delay. It was stated that though Article 32 is itself a guaranteed right, it does not follow from this that it was the intention of the Constitution-makers that this Court should disregard all principles and grant relief in petitions filed after inordinate delay.

9. It was stated in *State of M.P. v. Nandlal Jaiswal [(1986) 4 SCC 566 : AIR 1987 SC 251]* that the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring, in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which



also weighs with the High Court in deciding whether or not to exercise such jurisdiction.”

13. In ***Shiv Dass v. Union of India and Others***, (2007) 9 SCC 274, the Supreme Court held as under: -

“6. Normally, in the case of belated approach writ petition has to be dismissed. Delay or laches is one of the factors to be borne in mind by the High Courts when they exercise their discretionary powers under Article 226 of the Constitution of India. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in Durga Prasad v. Chief Controller of Imports and Exports [(1969) 1 SCC 185 : AIR 1970 SC 769] . Of course, the discretion has to be exercised judicially and reasonably.”

14. In ***Chennai Metropolitan Water Supply and Sewerage Board and Others v. T.T. Murali Babu***, (2014) 4 SCC 108, the Supreme Court held as under:

“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.

15. Petitioner seeks shelter under the representation made by him on 12.06.2019 and the legal notice sent on 19.01.2024. Firstly, the



representation given on 12.06.2019 was for correction of error in the fixation of pension and secondly, even otherwise merely making representations cannot aid a litigant who sleeps over his right and representations neither extend limitation and/or serve as the defence to delay and laches. In ***State of Uttaranchal and Another v. Shiv Charan Singh Bhandari and Others, (2013) 12 SCC 179***, the Supreme Court observed that the issue of limitation or delay and laches has to be considered with reference to original cause of action and even where the Court directs consideration of a representation relating to a stale or dead claim, it does not give rise to a fresh cause of action. Making repeated representations is not a satisfactory explanation of delay and if one chooses to sleep like Rip Van Winkle and gets up from the slumber at his own leisure for some reason which is fathomable to him, the reasoning cannot be countenanced in law.

16. In view of aforesaid, this Court holds that the writ petition is barred by delay and laches and there is no plausible explanation for the gross delay in approaching this Court.

17. Writ petition is accordingly dismissed being devoid of merit.

JYOTI SINGH, J

AUGUST 28, 2024
Sv/shivam