



153

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

**LPA-1221-2025 (O&M)
Decided on: April 29, 2025**

Paramjeet Kumar @ Nikku Ram

....Appellant

versus

The Presiding Officer, Industrial Tribunal, Bathinda and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE ALOK JAIN**

Present:- Mr. Arshnoor Singh Chugh, Advocate for the appellant.

SUDHIR SINGH, J. (ORAL)

The present intra Court appeal is directed against the order dated 18.03.2025 passed by learned Single Judge, in CWP-7389-2025, whereby the said writ petition filed by the appellant, was dismissed.

2. Before the learned Single Judge, the appellant had laid challenge to the award dated 24.01.2025 (Annexure P-6 with the writ petition) passed by the Industrial Tribunal, Bathinda (for short 'the Tribunal), whereby the reference was answered against the appellant.

3. As per the facts on record, it is the case of the appellant/workman that he started working as a Chowkidar in the office of Excise and Taxation, Kotkapura in 1993. On 08.05.1995, he was appointed as a Peon and he continued working as such till 14.08.1997, when his services were terminated by the respondent/Management. He filed CWP-12766-1997,

which was allowed vide order dated 20.10.1997 directing the respondent/Management to pass a fresh order, after affording him due opportunity of hearing. It is further the case of the appellant that he was issued a show-cause notice on 03.12.1997 to which he filed his reply on 15.12.1997. The respondent/Management passed the order of termination of his services on 19.12.1997 (Annexure P-3 with the writ petition). The appellant had challenged the said order by way of seeking a reference before the Tribunal after two decades. However, the Tribunal vide award dated 24.01.2025 answered the reference against the appellant.

4. Learned counsel appearing on behalf of the appellant has vehemently contended that while passing the impugned order, the learned Single Judge has not taken into consideration that no opportunity of hearing was granted to the appellant and has rather wrongly held that once the show-cause notice had been issued to the appellant, the same was the compliance of the opportunity of hearing. It is further argued that the witness(es) of the respondent/Management in their testimony before the Tribunal, had deposed that whenever any opportunity of personal hearing was granted to an employee, he had been issued a notice requiring his personal presence before the authorities and thus, in view of the said fact, mere issuance of a show-cause notice does not satisfy the compliance of grant of opportunity of personal hearing. It is further argued that the learned Single judge has failed to take into consideration that the appellant had duly explained the delay in approaching the Tribunal and the ground of his sickness was not denied by the respondent/Management. It is also argued that as per instructions dated 26.05.2003 issued by the State Government, the employees who had been

appointed prior to 13.06.1996 on *ad hoc* basis, their services were to be regularized and as the appellant had been appointed on 13.06.1996, his case ought to have been considered for regularization, but the said aspect has also been totally ignored by the learned Single judge as also by the Tribunal.

5. We have heard the learned counsel for the appellant and have also gone through the impugned order passed by the learned Single Judge.

6. There is no denying the fact that after passing the order of termination of services of the appellant on 19.12.1997, the appellant had challenged the said order by seeking reference before the Tribunal after a period of two decades. A perusal of the record shows that before the Tribunal, Reference No.51/2018 had been instituted on 06.07.2018, which was decided on 24.01.2025. The Tribunal found that the demand notice made after 20 years of the alleged termination of services of the appellant, was not maintainable as per law. The learned Single judge, after having considered the contentions raised by the learned counsel for the appellant and taking into consideration the facts of the case, has found that once in the earlier writ petition i.e., CWP-12766-1997, the respondents were directed to pass an order after affording the appellant an opportunity of hearing and in compliance thereof, he had been served with a show-cause notice, to which, he had filed his reply, passing of the order terminating his services could not be termed to be bad or illegal for not providing him an opportunity of hearing. It was further observed that as per the judgment of the Hon'ble Supreme Court in **Civil Appeal No.1852 of 1989** with **Civil Appeal No.4772 of 1989** titled as "**State of Punjab versus Gurdev Singh and Ashok Kumar**", decided on 21.08.1991, even a void order is required to be challenged within a period of

03 years. It was further found that the order passed by the respondent/Management terminating services of the appellant ought to have been challenged by him within the reasonable period.

7. It is settled law that a litigant must be vigilant of his rights, if he remains under slumber for a long period of time, the said fact would be sufficient to deny such litigant any relief claimed belatedly.

8. It is also a settled law that the delay is genus to which laches and acquiescence are species. It is further settled that the delay disentitles a party to the discretionary relief under the Article 226 of the Constitution of India. If a litigant keeps sleeping over his rights for a long period and wakes up when he does have an impetus either from the judicial verdict of the Court or otherwise, such litigant is not entitled to any relief. The Hon'ble Supreme Court in **Union of India v. N. Murugesan, (2022) 2 SCC 25** has held as under:-

“Delay, laches and acquiescence

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.*

Laches

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.

23. A defence of laches can only be allowed when there is no statutory bar. The question as to whether there exists a clear case of laches on the part of a person seeking a remedy is one of fact and so also that of prejudice. The said principle may not have any application when the existence of fraud is pleaded and proved by the other side. To determine the difference between the concept of laches and acquiescence is that, in a case involving mere laches, the principle of estoppel would apply to all the defences that are available to a party. Therefore, a defendant can succeed on the various grounds raised by the plaintiff, while an issue concerned alone would be amenable to acquiescence.

Acquiescence

24. We have already discussed the relationship between acquiescence on the one hand and delay and laches on the other.

25. Acquiescence would mean a tacit or passive acceptance. It is implied and reluctant consent to an act. In other words, such an action would qualify a passive assent. Thus, when acquiescence takes place, it presupposes knowledge against a particular act. From the knowledge comes passive acceptance, therefore instead of taking any action against any alleged refusal to perform the original contract, despite adequate knowledge of its terms, and instead being allowed to continue by consciously ignoring it and thereafter proceeding further, acquiescence does take place. As a consequence, it reintroduces a new implied agreement between the parties. Once such a situation arises, it is not open to the party that acquiesced itself to insist upon the compliance of the original terms. Hence, what is essential, is the conduct of the parties. We only dealt with the distinction involving a mere acquiescence. When acquiescence is followed by delay, it may

become laches. Here again, we are inclined to hold that the concept of acquiescence is to be seen on a case-to-case basis.”

9. The argument of the learned counsel for the appellant that the appellant had explained the delay of 20 years before the Tribunal properly, as he had been sick during said period, is not tenable. The said argument seems to be an afterthought. Similarly, the argument that no opportunity of hearing was granted to the appellant before passing the order of termination of his services, is also not tenable for the simple reason that once the show-cause notice had been issued to him and he had duly filed reply thereto, it cannot be said that the order of termination violates the principles of natural justice.

10. In view of the above, we find that there is no merit in the present appeal and the same is dismissed on merits as also being barred by limitation.

11. Pending application(s), if any, shall also stand disposed of.

(SUDHIR SINGH)
JUDGE

(ALOK JAIN)
JUDGE

April 29, 2025

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No