



CWP-16065-2025

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

141

CWP-16065-2025

Date of Decision: 28.05.2025

Jai Bhagwan

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Raj Kumar Chandana, Advocate for the petitioner

Mr. Raman Sharma, Additional Advocate General, Haryana

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking direction to respondents to reinstate him on the post of Home Guard.

2. The petitioner joined respondent as Home Guard Volunteer on 07.04.2005. He worked with the respondent till 2012. He came to be discharged without any written order or granting opportunity of hearing.

3. Learned counsel for the petitioner submits that there are many officials who had worked till 2010 and have been reinstated in 2025. The petitioner has also approached the respondents to reinstate him like similarly situated employees. Juber, a similarly situated employee, was also terminated and he preferred *CWP No.14486 of 2021* before this Court which



was disposed of vide order dated 03.08.2021 with a direction to respondent to decide his legal notice in accordance with law.

4. On being asked, learned counsel for the petitioner expressed his inability to advance any plausible reason for inordinate delay in approaching this Court. The petitioner was discharged in 2012 and the instant petition has been filed before this Court in 2025. There is no plausible explanation for the aforesaid inordinate delay.

5. 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, it 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.

6. A two Judge Bench of Supreme Court recently in ***Mrinmoy Maity v. Chhanda Koley and others, 2024 SCC OnLine SC 551*** has held that High Court ought to dismiss petition on the ground of delay and laches where there is no explanation of delay. An applicant who approaches the Court belatedly or in the other words sleeps over his rights for a considerable period ought not to be granted the extraordinary relief by writ Courts. Delay defeats equity. High Court may refuse to invoke its writ jurisdiction if laxity on the part of applicant has allowed the cause of action to drift away and



attempts are made to rekindle the lapsed cause of action. Multiple communications cannot create cause of action. The relevant extracts of the judgment are reproduced as below:

“9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been nonsuited or in other words writ petition ought to have been dismissed on the ground of delay and latches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or latches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.

10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straight jacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.



11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court.”

7. There is no explanation for delay. The petitioner by his act and conduct acquiesced action of the respondent and at this belated stage, he wants to make hay while the sun shines. Case of the petitioner is badly hit by doctrine of delay and laches.

8. In the wake of afore-cited judgment 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.

9. The petitioner is claiming that similarly situated employees have been reinstated after 15 years. The petitioner has also filed representation seeking his reinstatement. It is relevant to mention here that that disposal of instant petition would not inhibit the respondent from



considering claim of the petitioner in the wake of similarly situated employees.

(JAGMOHAN BANSAL)
JUDGE

28.05.2025
Mohit Kumar

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