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

CWP-19660-2025

Date of Decision: 16.07.2025

SANJAY KUMAR

..... Petitioner

Versus

STATE OF HARYANA AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Abhishek Goel, Advocate
for the petitioner (through V.C.).

Ms. Rajni Gupta, Addl. AG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondent to release gratuity for the period he worked as Lower Division Clerk (for short 'LDC') from 21.09.2010 to 14.06.2017. He is further seeking setting aside of order dated 22.04.2019 (Annexure P-11) passed by the respondents whereby his claim for gratuity was denied.

2. The petitioner joined Uttar Haryana Bijli Vitran Nigam as LDC on 14.09.2010. He, in 2012, applied for the post of JBT Teacher. He came to be selected as JBT Teacher. He resigned from the post of LDC and joined as JBT Teacher on 15.06.2017. His resignation was accepted on 17.08.2017. He requested the respondent to pay him gratuity for the period he had worked with respondent. He preferred CWP No.30255 of 2018 before this Court seeking release of gratuity. The said petition came



to be disposed of vide order dated 30.11.2018 with a direction to respondent to decide petitioner's representation within two months. The respondent did not comply with orders of this Court and petitioner preferred COCP No.684 of 2019 before this Court which came to be disposed of as respondent vide order dated 22.04.2019 (Annexure P-11) rejected his claim.

3. Claim of the petitioner was finally rejected on 22.04.2019. The respondent in compliance of orders of this Court vide order dated 22.04.2019 rejected claim of the petitioner. He did not challenge said order at the earliest. He has preferred instant petition after expiry of 6 years from the date of passing impugned order.

4. On being asked reason of inordinate delay, Mr. Abhishek Goel, Advocate for the petitioner submits that petitioner was approaching Government Authorities after passing of aforesaid speaking order.

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 Vs. 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 non-suited or in other words writ petition ought to have been dismissed on the ground of delay and laches 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 laches 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 latches 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 latches, 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 latches on the part of the applicant in approaching a writ court.”

7. Applying the aforesaid judgment, this Court finds no explanation for delay in the instant case. In the instant case, the petitioner approached this Court seeking release of gratuity in 2018. This Court



directed respondent to pass speaking order within two months. The respondent passed speaking order on 22.04.2019 (Annexure P-11). The petitioner as per his convenience remained dormant for 6 years and at this belated stage has approached this Court seeking setting aside of said order. The petitioner approached this Court in 2018 which shows that he is a vigilant citizen. He on one occasion had also filed contempt petition. There was no reason to wait for 6 years. The petitioner is trying to rekindle a dead claim. The present petition deserves to be dismissed on the ground of delay and laches and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

16.07.2025
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No