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

LPA-3401-2024 (O&M)
Decided on: March 03, 2025

MUKHTIAR SINGH

....Appellant

versus

STATE OF PUNJAB & ORS

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present:- Mr. Amit Mehta, Advocate for the appellant.

SUDHIR SINGH, J. (ORAL)

CM-8384-LPA-2024

For the reasons given in the application, the same is allowed.

Delay of 17 days in re-filing the appeal is condoned.

CM-8385-LPA-2024

For the reasons given in the application, the same is allowed.

Delay of 05 days in filing the appeal is condoned, subject to all just exceptions.

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Challenge in the instant intra Court appeal is to the order dated 20.08.2024 passed by the learned Single Judge, whereby the writ petition filed by the appellant was dismissed on the ground of delay and laches.

2. Before the learned Single Judge, the appellant had laid challenge to the award dated 10.11.2022 (Annexure-P8 with the writ petition) whereby

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the reference had been answered against the appellant on the ground of delay and laches.

3. As per the facts on record, the appellant was a conductor in the Punjab Roadways. He proceeded on 90 days medical leave from 14.10.1996. He did not rejoin the duties and accordingly, his services were terminated vide order dated 08.12.1998. Upon the failure of the conciliation proceedings, the Government of Punjab made a reference to the Industrial Tribunal on 16.02.2020. The Labour Court found that the appellant was not able to provide any cogent and convincing explanation either in the demand notice or in the statement of claim as to why it took him 21 years to challenge his termination.

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

5. It is 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.”

6. In view of the above, we do not find any illegality or perversity in the order passed by the learned Single Judge. Accordingly, the present appeal is dismissed.
7. Pending application(s), if any, shall stand disposed of.

(SUDHIR SINGH)
JUDGE

(SUKHVINDER KAUR)
JUDGE

March 03, 2025

himanshu

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No