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

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CWP-35342-2024

Date of Decision : 07.01.2025

ASHA RANI

.... PETITIONER

V/S

STATE OF HARYANA AND ANOTHER

.... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

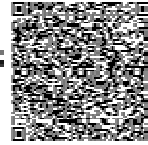
Present : Mr.Paramjit Kumar, Advocate for
Mr. B.S.Bajwa, Advocate
for the petitioner.

Mr. Praveen Chander Goyal, Addl.A.G., Haryana.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to the respondents to consider her appointment with effect from her date of application and pay interest on delayed payment of family pension.

2. The husband of petitioner expired on 14.10.1998 under mysterious circumstances. An FIR came to be registered against various persons including petitioner. Police after completing investigation filed its report. The trial Court vide judgment dated 19.03.2005 acquitted the petitioner. The respondent did not extend her benefit of compassionate appointment and family pension on account of alleged involvement in the murder of her husband. As she was acquitted by trial Court, the respondent considered her application for compassionate appointment



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and family pension. The respondent paid her family pension w.e.f. 1998. She was extended benefit of compassionate appointment and her date of appointment was 18.01.2006. The petitioner is claiming interest on delayed payment of family pension as well as her date of appointment to be 10.02.1999 i.e. date of filing of application seeking compassionate appointment.

3. Mr.Paramjit Kumar, Advocate submits that the petitioner was wrongly implicated in a criminal case and thereafter wrongly denied benefit of family pension as well as compassionate appointment. The respondent is liable to pay interest on delayed payment of family pension. The date of appointment of petitioner should be considered as 10.02.1999 instead of 18.01.2006.

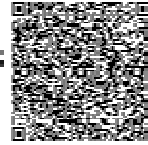
4. Notice of motion.

5. Mr. Praveen Chander Goyal, Addl.A.G., Haryana, who on advance notice is present in Court, accepts notice on behalf of respondent-State and waives service.

6. With the consent of both the parties, the matter is taken up today itself for final disposal.

7. Mr. Goyal submits that there was no lapse on the part of respondent. Compassionate appointment is not a matter of vested or fundamental right. The petitioner was not granted compassionate appointment on account of her involvement in the murder of her husband. As soon as she was acquitted by trial Court, she was extended benefit of family pension as well as compassionate appointment.

8. I have heard the arguments of counsel for the parties and



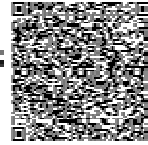
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perused the record.

9. It is a settled proposition of law that compassionate appointment is neither a vested nor fundamental right. The said benefit is extended to prevent the family from being driven to destitution. The petitioner was not extended benefit of compassionate appointment on account of her alleged involvement in the murder of her husband. She was entitled to compassionate appointment on account of service of her husband. As there was FIR against her, there was no lapse on the part of respondent in not making her appointment from the date of application. As soon as she was acquitted, she was granted benefit of compassionate appointment. There is no reason to extend her benefit of compassionate appointment from the date of application. There is another facet of the matter which needs to be considered. She was appointed in January' 2006 whereas instant petition has been filed in 2024. There is no reason for inordinate delay.

10. The petitioner is further claiming interest on delayed payment of family pension. She was entitled to family pension from October' 1998. She was paid family pension in March' 2006. She was also paid arrears in 2006. She has filed instant petition in 2024 seeking interest on delayed payment of family pension. She is claiming interest for the period from 1998 to 2006. There is no reason for inordinate delay. Right, if any, accrued to the petitioner in 2006 whereas petition has been filed before this Court in 2024.

11. 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.

12. 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:

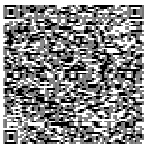
"9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and laches itself. An applicant who 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 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 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 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.”

13. This Court finds no explanation for delay in the instant case. The dispute has been raised before this Court after a delay of almost 19 years. By way of present petition, the petitioner is attempting to rekindle lapsed cause of action. The present petition deserves to be dismissed on the ground of delay and laches and accordingly dismissed.

07.01.2025
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(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No