

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.2907 of 2025

Date of Decision:03.02.2025

Rajnish Mittal and others

.....Petitioners

Vs.

Punjab State Cooperative

Bank Ltd. & anr.

.....Respondents

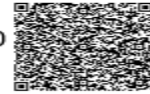
CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Manjit Singh Sarao, Advocate
for the petitioner.

DEEPAK GUPTA, J.

Shri Nand Lal, the deceased father of petitioners was working as Senior Accountant in respondent No.1 – Bank, when FIR No.176 dated 30.08.1999 under Sections 420, 467, 468, 471/120-B IPC came to be registered at Police Station Sector 31, Chandigarh against said Nand Lal and two others. Later on, said Nand Lal retired from respondent No.1 – Bank as Manager on 30.11.2001 on attaining the age of superannuation, without prejudice to the outcome of the departmental inquiry, which could resume as and when the stay of inquiry was vacated by the Court or after his statement under Section 313 Cr.P.C is recorded in the criminal case. Acquittal of Shri Nand Lal and two others was recorded by Ld. JMIC, Chandigarh on 11.07.2009. Shri Nand Lal expired on 10.08.2010 leaving behind the petitioners as his only legal heirs.

2. Petitioners contend that retiral dues including gratuity, leave encashment and staff security were liable to be released on receipt of “No Due Certificate” from the concerned Bank/ officials but the same have not been paid till date. Petitioner No.2 also made a representation dated 08.10.2024 (*Annexure P.8*) for releasing the retiral dues of his father followed by a legal notice dated 14.10.2024 (*Annexure P.9*) but with no response.

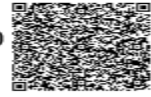


3. With above contentions, this writ petition has been filed under Articles 226/227 of the Constitution of India with the prayer for issuing of the writ of mandamus by directing the respondents to treat the charge-sheet dated 08.01.2000 as having abated and to release the retiral dues of the father of the petitioners in view of the representation (Annexure P.8) and legal notice (Annexure P.9).

4. Learned counsel for the petitioners has been heard.

5. It is evident from paper book that father of the petitioners was acquitted way back on 11.07.2009. Prior thereto, he had superannuated on 30.11.2001 and ultimately, he expired on 10.08.2010. There is nothing on record to indicate that after his acquittal, and during his lifetime, Shri Nand Lal, the father of the petitioners ever asked the respondents to release his retiral benefits or approached any Court. Prior to representation dated 08.10.2024 (Annexure P.8), no action appears to have been taken on behalf of the petitioners for release of retiral dues to their father.

6. Thus, petition is evidently hit by the principles of long delay and laches. For filing of a writ petition under Articles 226 of the Indian Constitution, there is no strict statute of limitation. However, this does not mean that delays are entirely overlooked. The courts apply the principles of delay and laches to determine the reasonableness of the delay in filing such a petition. In this regard, courts have significant discretion to decide whether a delay is unreasonable. They consider factors such as the justification for the delay, potential prejudice to the opposing party, and the public interest involved. Delays are more likely to be overlooked if the issue pertains to public interest or affects a large number of people. If the delay is deemed unreasonable and causes prejudice to the other party, or if the petitioner has acquiesced to the situation, the court may dismiss the petition.



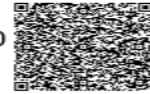
7. **In *P.S. Sadasivaswamy vs The State Of Tamil Nadu AIR 1974***

SC 2271, Hon'ble Supreme Court, observed as under:

“A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner's petition should, therefore have been dismissed in limine. Entertaining such petitions is a waste of time of the court. It clogs the work of the Court and impedes the work of the court in considering legitimate grievances as also its normal work. We consider that the High court was right in dismissing the appellant's petition as well as the appeal.”

8. Hon'ble Supreme Court has recently held in ***Mrinmoy Maity Vs Chhanda Koley and others, 2024 SCC Online SC 551***, as under:-

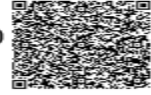
“9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and latches itself. An applicant who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



9. It is thus clear that High Court should not entertain the writ petition and should dismiss the same on the ground of delay and latches, when there is no explanation of delay. The applicant who approaches the Court belatedly or sleeps over his rights for considerable period, does not deserve to be granted the extra-ordinary relief by invoking the writ jurisdiction of the Court. It is settled proposition of law that delay defeats equity. High Court will be well within its jurisdiction to refuse to invoke its writ powers, if there is laxity on behalf of the applicant, as the said laxity allows the cause of action to drift away and attempts to rekindle the lapse cause of action. Even the delayed multiple communications cannot create cause of action.

10. In the present case also, there is absolutely no explanation for delay of more than 15 years in approaching the court. The contention that the petitioners can approach the court at any point of time because of recurring cause, has no merit, as initially the deceased father of the petitioners till his lifetime and then the petitioners, by their act and conduct acquiesced in the action of the respondents and, therefore, at this belated stage, petitioners cannot be allowed to put forth their grievances.

11. As such, the present petition is hereby dismissed being badly hit by the doctrine of delay and latches, as this Court does not find it appropriate to invoke its extra-ordinary writ jurisdiction.

February 03, 2025

(DEEPAK GUPTA)

Renu

JUDGE

Whether Speaking/reasoned Yes/No

Whether Reportable Yes/No