IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-26988-2017 (O&M)

Date of decision: 06.03.2025

Navdeep Singh and another

....Petitioners

V/s

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Anurag Arora, Advocate for the petitioners.

Mr. Salil Sabhlok, Senior DAG, Punjab.

Ms. Munisha Gandhi, Senior Advocate with
Mr. Arshdeep Bhullar, Advocate and
Ms. Manveer Narang, Advocate for respondent No.3.

None for respondent No.4.

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SUMEET GOEL, JUDGE

1. The petition in hand filed under Article 226/227 of the Constitution of India, is aimed at impugning the decisions dated 24.01.2017 and 08.02.2017 passed by respondent No.3, whereby the representation(s) of the petitioners have been rejected and the claim of the petitioners was declined for being entitled to be appointed as PCS (Judicial Branch) Officers on the basis of selection made in the year 2001, by quashing the order dated 27.09.2002 (whereby appointment of the petitioners was cancelled).

2. Shorn of non-essential details, the relevant factual matrix of the *lis* in hand is adumbrated, thus:

(i) In the year 2001, 21 posts of PCS (Judicial Branch) Officers were advertised by respondent No.4 – The Punjab Public Service Commission (*hereinafter to be referred as 'PPSC'*). The petitioners applied

in pursuance of this advertisement and are stated to have been successful therein & their appointment letter dated 18.03.2002 came to be issued.

(ii) Vide letter dated 17.08.2002, the Registrar General of this Court conveyed to the petitioners (herein) and other selectees that the recruitment/appointment letters made in favour of the petitioners were terminated on account of a recruitment scam having surfaced.

(iii) The said cancellation order(s), communicated vide letter dated 27.09.2002, came to be challenged before this Court by some of the selectees and the same came to be dismissed on 27.05.2008. The petitioners (herein) have pleaded that they were not the writ petitioners in that writ petition.

(iv) The petitioners, alongwith others, faced trial in respect of the FIR No.64 dated 05.09.2002 registered under Sections 8/12 of the Prevention of Corruption Act, 1988 at Police Station Vigilance Bureau, Patiala (*hereinafter to be referred as 'FIR in question'*) & vide judgment dated 21.03.2016 passed by the concerned Sessions Court, the petitioners came to be acquitted.

(v) The petitioners, upon being acquitted in the *FIR in question*, made representations dated 31.08.2016/01.09.2016 to the Additional Chief Secretary (Department of Home Affairs and Justice), Government of Punjab pleading therein that their appointment orders issued in the year 2002 be restored and they be inducted in PCS (Judicial Branch) on the basis of their selection in the year 2001. The said representations were forwarded by the Home Department, Government of Punjab to respondent No.3. Vide the decisions dated 08.02.2017 and 24.02.2017, the same came to be declined.

(vi) The above order(s) of rejection of their representations have impelled the petitioners to implore this Court by way of the petition in hand.

3. Learned counsel for the petitioners has argued that the petitioners were selected, in accordance with the prevailing relevant procedure, in the year 2001 and on the basis of selection process having been completed, they were issued the requisite appointment letters but the same got cancelled on account of allegation(s) of a recruitment scam. However, the said allegation(s) of recruitment scam turned out to be mis-founded as the petitioners have been acquitted by the concerned Sessions Court in respect of the *FIR in question*. It has, thus, been iterated that once the entire foundation of cancellation of the appointment letters issued to the petitioners has effaced in view of the judgment of the acquittal passed by the concerned Sessions Court, the respondent(s) ought to have, forthwith, restored the appointment letters issued earlier in favour of the petitioners. It has been further iterated that the rejection of the representations by respondent No.3, in the factual backdrop of the case, is illegal as also arbitrary. On the strength of these submissions, the grant of writ petition in hand is entreated for.

4. Upon notice of motion having been issued, respondent Nos.1 & 2 have filed a short reply dated 05.04.2018 by way of affidavit of Rajnish Kumar Sharma, Under Secretary to Govt. of Punjab, Department of Home Affairs and Justice. It has been primarily urged in this short reply that the State Government had issued appointment letters to the candidates for PCS (Judicial Branch) on the recommendation of Registrar General of respondent No.3 and since the representations made by the petitioners have been

declined by respondent No.3, no action is called for at the end of respondent Nos.1 and 2. Learned State counsel has raised submissions in consonance with the said short reply.

5. Reply on behalf of respondent No.3 (Punjab and Haryana high Court) has been filed by Shri Barinder Singh Ramana, OSD (Vigilance), Punjab. Learned senior counsel for respondent No.3, while strenuously raising submissions in tandem with this reply, has submitted that the writ petition in hand is barred by laches as their termination order was passed in the year 2002 whereas the petitioners have preferred the present writ petition in the year 2017 i.e. after a gap of 16 years. It has been further iterated that, some persons who were somewhat similarly placed as petitioners, had challenged their removal order by way of writ petition before this Court which came to be dismissed. Learned senior counsel has placed reliance, *in extenso,* upon the judgment dated 21.10.2024 passed in CWP-4468-2018 titled as ***Anil Kumar Jindal vs. State of Punjab and others,*** relevant whereof reads as under:-

> *"13. A perusal of the record shows that admittedly, the writ petition filed by the petitioners was dismissed by the Full Bench of this Court vide judgment dated 27.05.2008, which was never challenged before the Hon'ble Supreme Court by the petitioners and therefore, the same attained finality.*
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> *14. Further the challenge to the judgment of Full Bench of this Court dated 27.05.2008 was made by the High Court of Punjab and Haryana before the Hon'ble Supreme Court and the Hon'ble Supreme Court vide its judgment dated 18.03.2010 dismissed the same.*
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> *15. Thereafter, the review application filed by the petitioners in CWP-17347-2003 on the ground of their acquittal in FIR No.64, dated 05.09.2002, was again dismissed by the Full Bench of this Court vide its order dated 14.07.2017.*

16. After perusing the whole record of the cases and sequence of events and the detailed judgment passed by the Full Bench of this Court dated 27.05.2008 dismissing CWP-17347-2003 filed by the petitioners herein challenging order dated 27.09.2002, whereby their names were removed from the Register of Punjab and Haryana High Court at Chandigarh, under Rule 4 of Part 'D' of the Punjab Civil Service (Judicial Branch), Rule 51. Further when the petitioners never challenged the judgment dated 27.05.2008 of the Full Bench of this Court in CWP before the Hon'ble Supreme Court and even the challenge to the same (27.05.2008) by the High Court of Punjab and Haryana before the Hon'ble Supreme Court whereby the Hon'ble Supreme Court dismissed the same vide judgment dated 18.03.2010 shows that the decision dated 27.05.2008 of the Full Bench of this Court in CWP attained finality. Thereafter on the ground of their acquittal in FIR No.64, dated 05.09.2002 even the review filed by the petitioners herein was dismissed by the Full Bench of this Court vide its order dated 14.07.2017.

17. Therefore, once the challenge to the impugned order dated 27.09.2002 in the present writ petitions attained finality till the Hon'ble Supreme Court and the challenge to the same order dated 27.09.2002 on the ground of acquittal in FIR No.64, dated 05.09.2002 against in the present writ petitions would not be maintainable.

<u>Conclusion</u>

18. Therefore, we do not find any merit in the present petitions and the same are dismissed, accordingly."

On the strength of these submissions, dismissal of the instant writ petition is canvassed for.

6. None has caused appearance on behalf of respondent No.4 – The Punjab Public Service Commission. Further, no reply has been filed on behalf of respondent No.4. At this juncture, it is noticeable that the challenge in the writ petition is to the decisions dated 24.01.2017 and 08.02.2017 passed by respondent No.3, and hence this Court had proceeded to hear the final arguments on 20.02.2025 and thereafter reserved the judgment in the present case.

7. We have heard learned counsel for the rival parties and have perused the available record.

Prime Issue

8. Before proceeding to delve into merits of the writ petition in hand, this Court deems it appropriate to ratiocinate upon the preliminary contentious issue arising in the matter, as to whether the writ petition in hand satisfies the rigours of *Doctrine of laches* so as to deserve adjudication on merits thereof.

Relevant Statutory Provision

9. *Article 226 of the Constitution of India* (hereinafter referred to as '*Article 226*') reads, thus:

> *"226. Power of High Courts to issue certain writs — (1) Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.*
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> *(2) xxx xxx xxx*
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> *(3) xxx xxx xxx*
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> *(4) xxx xxx xxx"*

Relevant case law

10. The precedent(s), apropos to the matter(s) in issue, are as follows:

I. Re: ***Doctrine of laches***

(i) A Five Judge Bench of the Hon'ble Supreme Court in a judgment titled as ***The Moon Mills Ltd. vs. M.R. Meher, President,***

Industrial Court, Bombay and others, 1967 AIR Supreme Court 1450, has held as under:-

> *"6. xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx. It is also true that the writ will not be granted if there is such negligence or omission on the part of the applicant to assert his right as, taken in conjunction with the lapse of time and other circumstance, cause prejudice to the adverse party. The principle is to a great extent, though not identical with, similar to the exercise of discretion in the Court of Chancery. The principle has been clearly stated by Sri Barnes Peacock in* ***Lindsay Petroleum Company v. Prosper Armstrong Hurd, Abram Farewell and John Kemp, (1874) 5 PC 221 at p.239*** *as follows :"*
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> > *"Now the doctrine of laches in courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as related to the remedy."*

(ii) A Three Judge Bench of the Hon'ble Supreme Court in a judgment titled as ***Maharashtra State Road Transport Corporation (In all the appeals) vs. Balwant Regular Motor Service, Amravati and others, 1969 AIR Supreme Court 329,*** has held as under:-

> *"11. xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx. It is well established that the writ of certiorari will not be granted in a case where there is such negligence or omission on the part of the applicant to*

assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the adverse party. The principle is to a great extent, similar to though not identical with, the exercise of discretion in the Court of Chancery. xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx"

(iii) A Five Judge Bench of the Hon'ble Supreme Court in a judgment titled as ***M/s Tilokchand Motichand and others vs. H.B. Munshi, Commissioner of Sales Tax, Bombay and another, 1970 AIR Supreme Court 898,*** has held as under:-

"17. xxxxxxxxxxxxxx. A delay of 12 years or 6 years would make a strange bed-fellow with a direction or order or writ in the nature of mandamus, certiorari and prohibition. Bearing in mind the history of these writs I cannot believe that the Constituent Assembly had the intention that five Judges of this Court should sit together to enforce a fundamental right at the instance of a person, who had without any reasonable explanation slept over his rights for 6 or 12 years. The history of these writs both in England and the U.S.A. convinces me that the underlying idea of the Constitution was to provide an expeditious and authoritative remedy against the inroads of the State. If a claim is barred under the Limitation Act, unless there are exceptional circumstances, prima facie it is a stale claim and should not be entertained by this Court. But even if it is not barred under the Indian Limitation Act, it may not be entertained by this Court if on the facts of the case there is unreasonable delay. For instance, if the State had taken possession of property under a law alleged to be void, and if a petitioner comes to this Court 11 years after the possession was taken by the State, I would dismiss the petition on the ground of delay, unless there is some reasonable explanation. The fact that a suit for possession of land would still be in time would not be relevant at all. It is difficult to lay down a precise period beyond which delay should be explained. I favour one year because this Court should not be approached lightly, and competent legal advice should be taken and pros and cons carefully weighed before coming to this Court. It is common knowledge that appeals and representations to the higher authorities take time; time spent in pursuing these remedies may not be excluded under the Limitation Act, but it may ordinarily be taken as a good explanation for the delay."

(iv) The Hon'ble Supreme Court in a judgment tiled as ***The Chairman, State Bank of India and another vs. M.J. James 2022(2) SCC 301,*** has held as under:

> *"30. Laches unlike limitation is flexible. However, both limitation and laches destroy the remedy but not the right. Laches like acquiescence is based upon equitable considerations, but laches unlike acquiescence imports even simple passivity. On the other hand, acquiescence implies active assent and is based upon the rule of estoppel in pais. As a form of estoppel, it bars a party afterwards from complaining of the violation of the right. Even indirect acquiescence implies almost active consent, which is not to be inferred by mere silence or inaction which is involved in laches. Acquiescence in this manner is quite distinct from delay. Acquiescence virtually destroys the right of the person. Given the aforesaid legal position, inactive acquiescence on the part of the respondent can be inferred till the filing of the appeal, and not for the period post filing of the appeal. Nevertheless, this acquiescence being in the nature of estoppel bars the respondent from claiming violation of the right of fair representation."*

(v). The Hon'ble Supreme Court in a judgment tiled as ***Union of India vs. N Murugesan, (2002) 2 SCC 25,*** has held as under:

> *"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 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 nonconsideration 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 estoppels. The question of prejudice is also an important issue to be taken note of by the court"*

II. Re: ***Interest Reipublicae Ut Sit Finis Litium***

(i) The Hon'ble Supreme Court in a judgment in *Civil Appeals No.4575-76 of 1998* titled as ***N. Balakrishnan vs. M. Krishnamurthy,*** decided on 03.09.1998 has held as under:-

> *"11. Rules of limitation are not meant to destroy the right of parties. They are meant to seek that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixed a life-span for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the Courts. So a life-span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim interest reipublicae up sit finis litimum (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties, they are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time."*

III. Re: ***Vigilantibus Non Dormientibus Jura Subveniunt***

(i) The Hon'ble Supreme Court in a judgment in *Civil Appeal No.4994 of 2000* titled as ***State of M.P. vs. Pradeep Kumar,*** decided on 12.09.2000, has held as under:-

> *"12. It is true that the pristine maxim "Vigilantibus Non Dormientibus Jura Subveniunt" (Law assists those who are vigilant and not those who sleep over their rights). But even a vigilant litigant is prone to commit mistake. As the aphorism "to err is human" is more a practical notion of human behaviour than an abstract philosophy, the unintentional lapse on the part of a litigant should not normally cause the doors of the judicature permanently closed before him. The effort of the court should not be one of finding means to pull down the shutters of adjudicatory jurisdiction before a party who seeks justice, on account of any mistake committed by him, but to seek whether it is possible to entertain his grievance if it is genuine."*

IV. Re: ***Reliance On Legal Maxims In the Realm of Indian Jurisprudence***

A Five Judges bench of Hon'ble Supreme Court in a judgment in Criminal Appeal No.829 of 2005 tiled as ***Mrs. Sarah Mathew vs. The Institute of Cardio Vascular Diseases by its Director-Dr. K.M. Cherian and others***, decided on 26.11.2013 has held as under:-

> *"14.....We are, however, unable to accept the submission that reliance placed on legal maxims was improper. We are mindful of the fact that legal maxims are not mandatory rules but their importance as guiding principles can hardly be underestimated. Herbert Broom in the preface to the First Edition of his classical work "Legal Maxims" (as seen in Broom's Legal Maxims, Tenth Edition, 1939) stated:*
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> > *"In the Legal Science, perhaps more frequently than in any other, reference must be made to the first principles. Indeed, a very limited acquaintance with the earlier Reports will show the importance which was attached to the acknowledged Maxims of the Law, in periods when civilization and refinement had made comparatively little progress. In the ruder ages, without doubt, the great majority of questions respecting the rights, remedies, and liabilities of private individuals were determined by an immediate reference to such maxims, many of which obtained in the Roman law, and are so manifestly founded in reason, public convenience, and necessity, as to find a place in the code of every civilized nation. In more modern times, the increase of commerce, and of national and social intercourse, has occasioned a corresponding increase in the sources of litigation, and has introduced many subtleties and nice distinctions, both in legal reason and in the application of legal principles, which were formerly unknown. This change, however, so far from diminishing the value of simple fundamental rules, has rendered an accurate acquaintance with them the more necessary, in order that they may be either directly applied, or qualified, or limited, according to the exigencies of the particular case, and the novelty of the circumstances which present themselves."*

<u>Analysis (re law)</u>

11. *Doctrine of laches* does not have its roots in statutory definition. The word "*laches*" is derived from the French language meaning "remissness and slackness". It indicates 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 commit an act which the law requires while asserting a right, and therefore, ought to stand in the way of the party getting a relief or a remedy. It is an equitable propoundment to promote justice by preventing through examining of claims that have been allowed to slumber until evidence has been lost, memories have faded and witnesses have disappeared.

Indubitably, the *doctrine of laches* is not the same as the *doctrine of limitation.* In fact, laches unlike limitation, is flexible. A principle of law stated in Halsbury's Laws of England, which has met with approval from the Hon'ble Supreme Court, reads thus:

> *"In determining whether there has been such delay as to amount to laches, the chief points to be considered are:*
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> *(i) acquiescence on the claimant's part; and*
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> *(ii) any change of position that has occurred on the defendant's part"*

However, *Doctrine of laches* and *Doctrine of limitation* have, one common essential foundation between them, namely, the paramount consideration(s) for public policy and expediency of the objective to prevent an unexpected enforcement of stale demands *apropos* to the interested persons interested having been thrown off their guard, by want of prosecution. Both these doctrines enable a person to reckon upon security against harassment at a long distance of time at the sweet will of a rival party. The Hon'ble Supreme Court in case of ***N. Balakrishanan*** (supra), by

applying the maxim of ***Interest Reipublicae Ut Sit Finis Litium,*** has held that the foundation of doctrine of limitation is that every legal remedy must be kept alive for a fixed period of time since it is in the paramount interest of Society at large, to expunge protracted litigation, ensuring that stale claims do not perpetuate, thereby fostering and safeguarding judicial efficiency. To similar effect is the reliance placed by the Hon'ble Supreme Court, upon the maxim ***Vigilantibus Non Dormientibus Jura Subveniunt,*** in the judgment of ***Pardeep Kumar*** (supra). Further, the Hon'ble Supreme Court in the case of ***Sarah Mathews*** (supra) has conclusively upheld the principle that reliance can be placed on legal maxims in the realm of Indian jurisprudence. A passage in the renowned celebrated book titled as "Conflict of Laws" by Professor Joseph Story reads thus:

> *"Laws, thus limiting suits, are founded in the noblest policy; they are statutes of repose, to quiet titles, to suppress frauds, and to supply the deficiency of proof from the ambiguity and obscurity of transactions. They presume, that claims are extinguished, because they are not litigated within the prescribed period. They take away all solid grounds of complaint, because they rest on the negligence or laches of the party himself. They quicken diligence, by making it in some measure equivalent to right. They discourage litigation, by burying on one common receptacle all the accumulations of past times, which are unexplained, and have now become inexplicable. It has been said by Voet with singular felicity, that controversies are limited, lest they should be immortal, while men are mortal....."*

12. For filing of a writ petition, indubitably, no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be cognised as to whether within a reasonable time the same has been invoked and, even that submitting of representation(s) 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 writ ought to be dismissed or the writ-petitioner 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 court is 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 the fundamental right but while exercising discretionary jurisdiction under Article 226, the writ Court will have to necessarily take into consideration the delay and laches on the part of the writ-petitioner in approaching a writ Court. A perusal of the *ratio decidendi* of the judgments of the Hon'ble Supreme Court; in the cases of ***The Moon Mills Ltd.*** (supra), ***Maharashtra State Road Transport Corporation*** (supra), ***M/s Tilokchand Motichand*** (supra), ***The Chairman, State Bank of India*** (supra) and ***N Murugesan*** (supra); ineluctably reflects that the doctrine of laches should not be lightly brushed aside. A writ Court is required to weigh upon the explanation which is offered and upon acceptability of the same. The Court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court, it has a duty to protect the rights of the citizens but simultaneously, it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the *lis,* at a belated stage, should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances, delay and laches may not be fatal, but in most circumstances inordinate delay would invite disaster for the

litigant, who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, *firstly*, "procrastination is the greatest thief of time', *secondly*, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the *lis.* The *doctrine of laches* is not merely a technical stratagem available to a respondent but an axiomatic corollary of equity & justice. It is a juridical imperative, incumbent upon the court, to preclude the resurrection of moribund, antiquated, & time-barred claims, lest the fount of justice be polluted by the revival of settled disputes. To entertain such effete grievances is to imperil the sanctity of legal certainty, unsettle vested rights & subvert the tranquility of vested order. Justice, being a pursuit of reason and rectitude, abhors the procrastinating by a petitioner who slumbers upon his rights yet invokes judicial indulgence belatedly.

13. It is, thus, assuredly clear that laches is one of the factors which ought to be borne in mind by the writ Court while exercising its extra ordinary writ jurisdiction under Article 226 of the Constitution of India. The writ Court, in exercise of such discretion, ought not to, ordinarily, come to the rescue of the tardy and the indolent or the acquiescent and the lethargic. If there is delay *nay* inordinate unexplained delay on part of the writ-petitioner, the writ Court may decline to intervene.

There is yet another facet involved herein as the impediment of laches is not an absolute one. A writ Court is required to exercise its judicial discretion and such exercise is dependent upon the facts and circumstances of a given case. No straight jacket formula can be laid-down as to what constitutes *laches* in a given case and whether the High Court ought to

exercise its jurisdiction in a given case even if a writ-petitioner is otherwise guilty of laches. To put it differently; where circumstances justifying the conduct exist, the illegality which is manifest, cannot be sustained on the sole ground of laches. There is no gainsaying that when substantial justice and technical consideration are pitted against each other the cause of substantial justice ought to prevail. Where the exigencies of justice necessitate judicial interposition, the writ court, wielding its extraordinary prerogative, may vouchsafe relief despite the petitioner's tardy invocation of its jurisdiction. The *doctrine of laches,* itself a creature of equity, must perforce capitulate where the imperatives of justice demand redress. Equity, being the animating spirit of adjudication, brooks no rigid adhesion to technical constraints when the cause in hand is meritorious & conscience impels the judicial succor. Thus, where equity's entreaty is insistent & the dictates of rectitude inexorable, the court, in its justice dispensatory capacity, may temper the asperities of delay with a judicious clemency.

No exhaustive set of guideline(s) to govern such power can possibly be laid-down, however alluring this aspect may be. It is neither fathomable nor desirable to lay down any straightjacket formula in this regard. To do so would be to crystallize into a rigid definition, a judicial discretion, which for best of all reasons ought to be left undetermined. Any attempt in this regard would be, to say the least, a *quixotic* endeavour. Circumstantial flexibility, one additional or different fact, may make a sea of difference between conclusions in two cases. Such exercise would thus, indubitably, be dependent upon the factual matrix of the particular case

which the Court is in *seisin* of, since every case has its own peculiar factual conspectus.

Analysis (re facts of the present case)

14. The petitioners have laid challenge to the orders whereby their representations have been rejected but the said challenge is indubitably ostensible as, in fact, the petitioners are seeking invalidation of the communication dated 17.08.2002 whereby their appointment was terminated. The said communication was received by the petitioners in the year 2002 whereas the representations, rejection whereof has been made the basis of challenge in the writ petition in hand, were preferred in the year 2016. The much belated representation preferred by petitioners and decision thereupon is sought to be employed as shelter by petitioners to alleviate the *laches* at their end. The further cause put forward by the petitioners, to justify the time-lag, is that they were facing trial emanating from the *FIR in question* and it is only after earning acquittal therein vide judgment dated 21.03.2016, that they had the rightful cause to seek invalidation of their termination from service. This Court, while testing the plea of the petitioners, is pertinently required to lift the veil so as to see whether such plea satisfies the touchstone of *doctrine of laches*. Further, multiple recruitment advertisements have been issued and selections have been made in pursuance thereof since the petitioner's selection was terminated in the year 2002. Keeping in view the entirety of facts/circumstances involved in the present matter, there cannot be two opinions regarding the writ petition in hand being barred by *laches.* Accordingly, the present writ petition deserves rejection, being barred by *laches.*

Decision

15. In view of the preceding ratiocination, the writ petition in hand is dismissed on account of *laches.* Pending application(s), if any, shall also stands disposed of accordingly. There shall be no order as to costs.

(SUMEET GOEL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

March 06, 2025
Ajay

Whether speaking/reasoned: Yes
Whether reportable: Yes