IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 19th OF OCTOBER, 2023

WRIT PETITION No. 26074 of 2023

BETWEEN:-

SATISH KUMAR DAHARIYA S/O T.L. DAHARIYA, AGED ABOUT 57 YEARS, OCCUPATION: TIME KEEPER HOUSE NO H 64 H TYPE QUARTER MEDICAL COLLEGE (MADHYA PRADESH)

.....PETITIONER

(BY SHRI SANJAY ROY - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THR PRINCIPAL SECRETARY VALLABH BHAWAN, DISTRICT BHOPAL (MADHYA PRADESH)**
2. **ENGINEER IN CHIEF PUBLIC WORKS DEPARTMENT (B/R) ARERA HILLS NIRMAN BHAWAN BHOPAL (MADHYA PRADESH)**
3. **THE EXECUTIVE ENGINEER PUBLIC WORKS DEPARTMENT (B AND R) SUB DIVISION NO.2 MEDICAL COLLEGE DISTRICT (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI NAVEEN DUBEY – GOVERNMENT ADVOCATE)

This petition coming on for admission this day, the court passed the following:

ORDER

1. This petition under Article 226 of the Constitution of India has been filed seeking the following reliefs :-

   i) To direct the respondents to produce entire records pertaining to the petitioner before this Hon'ble High Court, in the interest of justice,

   ii) That, the petitioner further prays that this Hon'ble Court be issued a direction by way of Writ of Mandamus. The scale of amin equivalent to the scale of "Time Keeper" i.e. pay scale from 15.11.1989 Rs. 950-25-1000-30-1210-40-1530 and from 01.01.1996 Rs. 3050-75-3950-804590 being given to the similar situated persons on the basis of equal pay for equal work and as per order of this Hon'ble Court passed in "A.L.Thakur" in W.P. No. 16054/2003 (O.A. no. 5178/2000) passed on 27/06/2012 and arrears with interest,

   iii) To command the respondents to pay the petitioner, the difference of the salary after revising the pay scales and fixing the salaries in proper pay scales as prayed for,

   iv) To command the respondents to pay the applicants all the arrears of the salary with interest at the rate of 18% per annum after proper fixation of the salaries in proper pay scale,

   v) To direct the respondents to pay the cost of the litigation,

   vi) Any other relief/order or directions, as this Hon'ble High Court deems fit and proper looking to the facts and circumstances of the case in the interest of justice.

2. It is the case of the petitioner that he is working in the office of respondent no.3 on the post of Time Keeper since 17.11.1989. In the light of judgment passed by this Court in the case of **A.L.Thakur and others Vs. State of M.P. and others**, decided on 27.6.2012 in W.P.No.16054/2003 and order dated 9.12.2013 passed by the Division Bench of this Court in W.A.No.478/2013, the benefit of pay-scale of Rs.950-1530 from 15.11.1989 and pay-scale of Rs.3050-4590/- from 1.1.1996 has not been given. Although the petitioner has made a

representation to the respondents but no heed has been paid. It is submitted that the petitioner is also entitled for the similar relief which was granted to the similarly situated persons.

3. Per contra, the petition is vehemently opposed by counsel for the State. It is submitted that the present petition has been filed after 11 years of decision in the case of A.L.Thakur (supra) and no reasons have been assigned to explain the delay in the present petition. It is submitted that at the cost of causing inconvenience to the defendants, the Court may not extend the benefit of similar relief to the petitioner.
4. Heard the learned counsel for the parties.
5. Para 4 of the writ petition reads as under :-

> "**DELAY, IF ANY, IN FILING THE PETITOIN AND EXPLANATION THEREFOR** : There is no delay in filing the present petition".

6. Thus, it is clear that the petitioner has not explained the delay in filing the present petition. The petitioner is seeking benefit of pay-scale of Rs.950-1530/- w.e.f. 15.11.1989 and pay-scale of Rs.3050-4590/- w.e.f. 1.1.1996. Thus, it is clear that the petitioner has approached this Court after 34 years of the cause of action which arose for the first time and 11 years after the law was laid down by the High Court in the case of A.L.Thakur (supra). Delay defeats equity and this Court in order to avoid inconvenience to the respondents may refuse to extend the same benefit to the petitioner.
7. The Supreme Court in the case of **Karnataka Power Corpon. Ltd. Vs. K. Thangappan** reported in **(2006) 4 SCC 322** has held as under :

> **"6.** Delay or laches is one of the factors which is to be borne in mind by the High Court when they

exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers 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 circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in *Durga Prashad* v. *Chief Controller of Imports and Exports*. Of course, the discretion has to be exercised judicially and reasonably.

7. What was stated in this regard by Sir Barnes Peacock in *Lindsay Petroleum Co.* v. *Prosper Armstrong Hurd* (PC at p. 239) was approved by this Court in *Moon Mills Ltd.* v. *M.R. Meher* and *Maharashtra SRTC* v. *Shri Balwant Regular Motor Service*. Sir Barnes had stated:

> "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 limitation, 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 it relates to the remedy."

8. It would be appropriate to note certain decisions of this Court in which this aspect has been dealt with in relation to Article 32 of the Constitution. It is apparent that what has been stated as regards that article would apply, a fortiori, to Article 226. It was observed in *Rabindranath Bose* v. *Union of India* that no relief can be given to the petitioner who without any reasonable explanation approaches this Court under Article 32 after inordinate delay. It was stated that though Article 32 is itself a guaranteed right, it does not follow from this that it was the intention of the Constitution-makers that this Court should disregard all principles and grant relief in petitions filed after inordinate delay.

9. It was stated in *State of M.P.* v. *Nandlal Jaiswal* that the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring, in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the High Court in

deciding whether or not to exercise such jurisdiction."

8. The Supreme Court in the case of **M.P. Ram Mohan Raja Vs. State of T.N.** Reported in **(2007) 9 SCC 78** has held as under :

> **"11.** So far as the question of delay is concerned, no hard-and- fast rule can be laid down and it will depend on the facts of each case. In the present case, the facts stare at the face of it that on 8-10-1996 an order was passed by the Collector in pursuance of the order passed by the High Court, rejecting the application of the writ petitioner for consideration of the grant of mining lease. The writ petitioner sat tight over the matter and did not challenge the same up to 2003. This on the face of it appears to be very serious. A person who can sit tight for such a long time for no justifiable reason, cannot be given any benefit."

9. The Supreme Court in the case of **Shiv Dass Vs. Union of India** reported in **(2007) 9 SCC 274** has held as under :

> **"6.** Normally, in the case of belated approach writ petition has to be dismissed. Delay or laches is one of the factors to be bornein mind by the High Courts when they exercise their discretionary powers under Article 226 of the Constitution of India. In an appropriate case the High Court may refuse to invoke its extraordinary powers 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 circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in *Durga Prashad* v. *Chief Controller of Imports and Exports*. Of course, the discretion has to be exercised judicially and reasonably.

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> "Now the doctrine of laches in courts of equity is not an arbitrary or 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, if founded upon mere delay, that delay of course not amounting to a bar by any statute of limitation, 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 relates to the remedy."

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> writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction."

10. The Supreme Court in the case of **Nadia Distt. Primary School Council Vs. Sristidhar Biswar** reported in **(2007) 12 SCC 779** has held as under :

> "**11.** In the present case, the panel was prepared in 1980 and the petitioners approached the court in 1989 after the decision in *Dibakar Pal*. Such persons should not be given any benefit by the court when they allowed more than nine years to elapse. Delay is very significant in matters of granting relief and courts cannot come to the rescue of the persons who are not vigilant of their rights. Therefore, the view taken by the High Court condoning the delay of nine years cannot be countenanced."

11. The Supreme Court in the case of **U.P. Jal Nigam Vs. Jaswant Singh** reported in **(2006) 11 SCC 464** has held as under :

> **"12.** The statement of law has also been summarised in *Halsbury's Laws of England*, para 911, p. 395 as follows: "In determining whether there has been such delay as toamount to laches, the chief points to be considered are:

> (i) acquiescence on the claimant's part; and
> (ii) any change of position that has occurred on the defendant's part.
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> Acquiescence in this sense does not mean standing by while the violation of a right is in progress, but assent after the violation has been completed and the claimant has become aware of it. It is unjust to give the claimant a remedy where, by his conduct, he has done that which might fairly be regarded as equivalent to a waiver of it; or where by his conduct and neglect, though not waiving the remedy, he has put the other party in a position in which itwould not be reasonable to place him if the remedy were afterwards to be asserted. In such cases lapse of time and delay are most material. Upon these considerations rests the doctrine of laches."

12. The Supreme Court in the case of **Jagdish Lal Vs. State of Haryana** reported in **(1997) 6 SCC 538** has held as under :

> **"18.** That apart, as this Court has repeatedly held, the delay disentitles the party to the discretionary relief under Article 226or Article 32 of the Constitution."

13. The Supreme Court in the case of **NDMC Vs. Pan Singh** reported in **(2007) 9 SCC 278** has held as under :

> **"16.** There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could

not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercisedin favour of those who approach the court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction. (See *Govt. of W.B.* v. *Tarun K. Roy*, *U.P. Jal Nigam* v. *Jaswant Singh* and *Karnataka Power Corpn. Ltd.* v. *K. Thangappan*.)

17. Although, there is no period of limitation provided for filing a writ petition under Article 226 of the Constitution of India, ordinarily, writ petition should be filed within a reasonable time. (See *Lipton India Ltd.* v. *Union of India* and *M.R. Gupta* v. *Union of India*.)

18. In *Shiv Dass* v. *Union of India* this Court held: (SCC p. 277,paras 9-10)

> "*9*. It has been pointed out by this Court in a number of cases that representations would not be adequate explanation to take care of delay. This was first stated in *K.V. Rajalakshmiah Setty* v. *State of Mysore*. There is a limit to the time which can be considered reasonable for making representations and if the Government had turned down one representation the making of another representation on similar lines will not explain the delay. In *State of Orissa* v. *Pyarimohan Samantaray* making of repeated representations was not regarded as satisfactory explanation of the delay. In that case the petition had been dismissed for delay alone. (See also *State of Orissa* v. *Arun Kumar Patnaik*.)
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> *10*. In the case of pension the cause of action actually continues from month to month. That, however, cannot bea ground to overlook delay in filing the petition. It would depend upon the fact of each case. If petition is filed beyond a reasonable

> period say three years normally the Court would reject the same or restrict the relief which could be granted to a reasonable period of about three years. The High Court did not examine whether on merit the appellant had a case. If on merits it would have found that there was no scope for interference, it would have dismissed the writ petition on that score alone."
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> **19.** We, therefore, are of the opinion that it was not a fit case where the High Court should have exercised its discretionary jurisdiction in favour of the respondents herein."

14. The Supreme Court in the case of **State of Orissa v. Pyarimohan Samantaray** reported in **(1977) 3 SCC 396** has held as under :

> **"6.** It would thus appear that there is justification for the argument of the Solicitor-General that even though a cause of action arose to the petitioner as far back as 1962, on the rejection of his representation on November 9, 1962, he allowed some eleven years to go by before filing the writ petition. There is no satisfactory explanation of the inordinate delay for, as has been held by this Court in *Rabindra Nath Bose* v. *Union of India* the making of repeated representations, after the rejection of one representation, could not be held tobe a satisfactory explanation of the delay. The fact therefore remains that the petitioner allowed some 11 years to go by before making a petition for the redress of his grievances. In the meantime a number of other appointments were also made to the Indian Administrative Service by promotion from the State Civil Service, some of the officers received promotions to higher posts in that service and may even have retired. Those who continued to serve could justifiably think that as there was no challenge to their appointments within the period prescribed

> for a suit, they could look forward to further promotion and higher terminal benefits on retirement. The High Court therefore erred in rejecting the argument that the writ petition should be dismissed because of the inordinate and unexplained delay even though it was "strenuously" urged for its consideration on behalf of the Government of India."

15. The Supreme Court in the case of **State of Orissa v. Arun Kumar Patnaik** reported in **(1976) 3 SCC 579** has held as under :

> **"14.** It is unnecessary to deal at length with the State's contention that the writ petitions were filed in the High Court after a long delay and that the writ petitioners are guilty of laches. We have no doubt that Patnaik and Mishra brought to the court a grievance too stale to merit redress. Krishna Moorthy's appointment was gazetted on March 14, 1962 and it is incredible that his service-horoscope was not known to his possible competitors. On November 15, 1968 they were all confirmed as Assistant Engineers by a common gazettenotification and that notification showed Krishna Moorthy's confirmation as of February 27, 1961 and that of the other two as of May 2, 1962. And yet till May 29, 1973 when the writ petitions were filed, the petitioners did nothing except to file a representation to the Government on June 19, 1970 and a memorial to the Governor on April 16, 1973. The High Court made light of this long and inexplicable delay with a casual remark that the contention was "without any force". It overlooked that in June, 1974 it was setting aside an appointment dated March, 1962 of a person who had in the meanwhile risen to the rank of a Superintending Engineer. Those 12 long years were as if writ in water. We cannot but express our grave concern that an extraordinary jurisdiction should have been exercised in such an abject disregard of consequences and in favour of persons who were

unmindful of their so-called rights for many long years."

16. The Supreme Court in the case of **BSNL v. Ghanshyam Dass** reported in **(2011) 4 SCC 374** has held as under :

> **"26.** On the other hand, where only the affected parties approach the court and relief is given to those parties, the fence-sitters who did not approach the court cannot claim that such relief should have been extended to them thereby upsetting or interfering with the rights which had accrued to others.
> **27.** In *Jagdish Lal* v. *State of Haryana*, the appellants who were general candidates belatedly challenged the promotion of Scheduled Caste and Scheduled Tribe candidates on the basis of the decisions in *Ajit Singh Januja* v. *State of Punjab*, *Union of India* v. *Virpal Singh Chauhan* and *R.K. Sabharwal* v. *State of Punjab* and this Court refused to grant the relief saying: (*Jagdish Lal case*, SCC pp. 562-63, para 18)
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> > "*18*. … this Court has repeatedly held, the delay disentitles the party to the discretionary relief under Article 226 or Article 32 of the Constitution. It is not necessary to reiterate all the catena of precedents in this behalf. Suffice it to state that the appellants kept sleeping over their rights for long and elected to wake up when they had the impetus from *Virpal Chauhan* and *Ajit Singh* ratios. But *Virpal Chauhan* and *Sabharwal* cases, kept at rest the promotion already made by that date, and declared them as valid; they were limited to the question of future promotions given by applying the rule of reservation to all the persons prior to the date of judgment in *Sabharwal case* which required to be examined in the light of the law laid in *Sabharwal case*. Thus earlier

> promotions cannot be reopened. Only those cases arising after that date would be examined in the light of the law laid down in *Sabharwal case* and *Virpal Chauhan case* and equally *Ajit Singh case*. If the candidate has already been further promoted to the higher echelons of service, his seniority is not open to be reviewed. In *A.B.S. Karamchari Sangh case* a Bench of two Judges to which two of us, K. Ramaswamy and G.B. Pattanaik, JJ. were members, had reiterated the above view and it was also held that all the prior promotions are not open to judicial review. In *Chander Pal* v. *State of Haryana* a Bench of two Judges consisting of S.C. Agrawal and G.T. Nanavati, JJ. considered the effect of *Virpal Chauhan*, *Ajit Singh*, *Sabharwal* and *A.B.S. Karamchari Sangh* cases and held that the seniority of those respondents who had already retired or had been promoted to higher posts could not be disturbed. The seniority of the petitioner therein and the respondents who were holding the post in the same levelor in the same cadre would be adjusted keeping in view the ratio in *Virpal Chauhan* and *Ajit Singh*; but promotion, if any, had been given to any of them during the pendency of this writ petition was directed not to be disturbed."

17. The Supreme Court in the case of **Ghulam Rasool Lone v. State of J&K** reported in **(2009) 15 SCC 321** has held as under:

> **"22.** If at this late juncture the petitioner is directed to be promoted to the post of Sub-Inspector even above Abdul Rashid Rather, the seniority of those who had been promoted in the meantime or have been directly recruited would be affected. The

> State would also have to pay the back wages to him which would be a drainage of public funds. Whereas an employee cannot be denied his promotion in terms of the rules, the same cannot be granted out of the way as a result whereof the rights of third parties are affected. The aspect of public interest as also the general administration must, therefore, be kept in mind while granting equitable relief.
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> **23.** We understand that there would be a heart burning insofar as the petitioner is concerned, but then he is to thank himself therefor. If those five persons, who were seniors to Hamiddulah Dar filed writ petitions immediately, the High Court might havedirected cancellation of his illegal promotion. This Court in *Maharaj Krishan Bhatt* did not take into consideration all these aspects of the matter and the binding decision of a three-Judge Bench of this Court in *Govt. of W.B.* v. *Tarun K. Roy*. The Division Bench of the High Court, therefore, in our opinion was right in opining that it was not necessary for it to follow *Maharaj Krishan Bhatt*."

18. The Supreme Court in the case of **P.S. Sadasivaswamy v. State of T.N.,** reported in **(1975) 1 SCC 152** has held as under:

> "**2.** … 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."

19. The Supreme Court in the case of **Administrator of Union Territory of Daman and Diu and others v. R.D. Valand** reported in **1995 Supp (4) 593** has held as under:-

> "**4.** We are of the view that the Tribunal was not justified in interfering with the stale claim of the respondent. He was promoted to the post of Junior Engineer in the year 1979 with effect from 28-9-1972. A cause of action, if any, had arisen to him at that time. He slept over the matter till 1985 when he made representation to the Administration. The said representation was rejected on 8-10-1986. Thereafter for four years the respondent did not approach any court and finally he filed the present application before the Tribunal in March, 1990. In the facts and circumstances of this case, the Tribunal was not justified in putting the clock back by more than 15 years. The Tribunal fell into patent error in brushing aside the question of limitation by observing that the respondent has been making representations from time to time and as such the limitation would not come in his way."

20. This Court in the case of **Shri Ratiram Dohare vs. The State of M.P. and others** decided on **04.08.2022** ***in*** **W.P.No.17493/2022 (Gwalior Bench)** has held as under:-

> "Non-grant of increment or kramonnati will necessarily effect the salary as well as pension. Thus, the same can be said to be a recurring cause of action. The only question for consideration is as to whether this Court can refuse to grant relief even in such cases or not. In the case of Mamta Mohanty (supra), the Supreme Court has held as under:-
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> > "52. In the very first appeal, the respondent filed writ petition on 11-11-2005 claiming relief under the Notification dated 6-10-1989 w.e.f. 1-1-1986 without furnishing any explanation

for such inordinate delay and on laches on her part. Section 3 of the Limitation Act, 1963, makes it obligatory on the part of the court to dismiss the suit or appeal if made after the prescribed period even though the limitation is not set up as a defence and there is no plea to raise the issue of limitation even at the appellate stage because in some of the cases it may go to the root of the matter. (See Lachhmi Sewak Sahu v. Ram Rup Sahu [AIR 1944 PC 24] and Kamlesh Babu v. Lajpat Rai Sharma [(2008) 12 SCC 577].)

53. Needless to say that the Limitation Act, 1963 does not apply in writ jurisdiction. However, the doctrine of limitation being based on public policy, the principles enshrined therein are applicable and writ petitions are dismissed at initial stage on the ground of delay and laches. In a case like at hand, getting a particular pay scale may give rise to a recurring cause of action. In such an eventuality, the petition may be dismissed on the ground of delay and laches and the court may refuse to grant relief for the initial period in case of an unexplained and inordinate delay. In the instant case, the respondent claimed the relief from 1-1-1986 by filing a petition on 11-11-2005 but the High Court for some unexplained reason granted the relief w.e.f. 1-6-1984, though even the Notification dated 6-10-1989 makes it applicable w.e.f. 1-1-1986.

54. This Court has consistently rejected the contention that a petition should be considered ignoring the delay and laches in case the petitioner approaches the Court after coming to know of the relief granted by the Court in a similar case as the same

> cannot furnish a proper explanation for delay and laches. A litigant cannot wake up from deep slumber and claim impetus from the judgment in cases where some diligent person had approached the Court within a reasonable time. (See RupDiamonds v. Union of India [(1989) 2 SCC 356 : AIR 1989 SC 674] , State of Karnataka v. S.M.Kotrayya [(1996) 6 SCC 267 : 1996 SCC (L&S) 1488] and Jagdish Lal v. State of Haryana [(1997) 6 SCC 538 :1997 SCC (L&S) 1550 : AIR 1997 SC 2366] .)
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> 68. From the aforesaid discussion, the following picture emerges:
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> (xv) The cases had been entertained and relief had been granted by the High Court without considering the issue of delay and laches merely placing reliance upon earlier judgments obtained by diligent persons approaching the courts within a reasonable time.
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> Since, the petitioner has approached this Court after 35 long years of his first cause of action and after 11 long years of his retirement. It is well established principle of law that delay defeats equity."

21. Although counsel for the petitioner tried to convince this Court by alleging that the cause of action in hand is a recurring cause of action, therefore, question of delay and laches will not arise but once the petitioner has acted as a fence sitter and woke up only after 11 years of the judgment pronounced by this Court and after 34 long years from the date when cause of action arose for the first time, this Court is of the considered opinion that the relief claimed by the petitioner can be refused on the ground of delay and laches.

22. Accordingly, the petition is **dismissed** on the ground of delay and laches.

(G.S. AHLUWALIA)
JUDGE

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