

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.3204 of 2019

Decided on: 07th July, 2026

Shamsher Singh

...Petitioner

Versus

State of H.P. and others

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹ Yes

For the petitioner:

Mr. Varun Thakur and Mr. Aakash Thakur, Advocates.

For the respondents:

Mr. Vishav Deep Sharma, Additional Advocate General.

Jiya Lal Bhardwaj, Judge, (Oral)

By way of present petition, the petitioner has prayed for the following substantive relief:-

"(i) To quash and set-aside the impugned dated 12.1.2018 and 13.04.2018 being unjust, illegal and arbitrary and the applicant may be held entitled for all consequential benefits of clerk from due date in the interest of law and justice with all the benefits incidental thereof such as pay/allowance of Clerk, seniority and pay fixation with interest."

2. The facts as emerge from the pleadings are that the petitioner was appointed as Peon in the District

¹ Whether reporters of Local Papers may be allowed to see the judgment?

Administration, Shimla during the year 1981 and was posted in the office of SDO (Civil), Rohru, where he joined his duties on 31.08.1981. The petitioner remained at Rohru for about two and a half years approximately and during the first quarter of 1984, he was transferred to District Headquarter, Shimla. Thereafter, he joined his duties at District Headquarter, Shimla. It has been averred that vide office order dated 06.03.1984, he was assigned the duties of Clerk and was temporarily promoted as Clerk. Thereafter, he was posted at various places and promoted as Clerk vide office order dated 20.12.1997 (Annexure A-6). Thereafter, the petitioner retired from service on 30.06.2010.

3. The petitioner before his retirement made a representation on 23.06.2010 (Annexure A-7), to grant him monetary benefit of the pay of Clerk on the principle of doctrine of "equal pay for equal work" and treat him as if he was regularly appointed as Clerk since 1st quarter of 1984 with further consequential benefits admissible under the rules. Thereafter, he again made a representation on

24.05.2017 (Annexure A-9), however, the said representation came to be rejected vide office order dated 12.01.2018 (Annexure A-10).

4. The petitioner feeling aggrieved by the order of rejection of his representation preferred an appeal before respondent No.2, which came to be rejected vide order dated 13.04.2018. The petitioner feeling aggrieved by the orders dated 12.01.2018 and 13.04.2018 passed by respondents No.3 and 2, respectively, challenged the same by preferring the original application before the Tribunal, which has now been registered as present petition *inter alia* on the grounds that the said orders are illegal, arbitrary and have been issued in colorable exercise of powers as well as in violation of Articles 14, 16, 19 and 21 of the Constitution of India. It is averred that the findings given by respondents No.2 and 3 are not based upon supporting material and thus, prayed that the same be quashed and set aside and the petitioner be held entitled for all consequential benefits of the post of Clerk from due date.

5. The respondents filed reply to the original application and averred that the original application is not maintainable in the present facts and circumstances of the case. The application deserves to be dismissed solely on the ground of limitation as the same has been filed after more than 8 years of retirement of the petitioner and about 36 years from the day from which he is claiming the salary. Not only this, the petitioner has not mentioned a single word to explain the reason that if he had worked against the post of Clerk as claimed by him, why he had not demanded/claimed salary at that time, when he was working against any such post of Clerk. In fact, the petitioner remained posted as a Peon in the establishment during the period from June, 1986 to December, 1997. Thereafter, he was promoted to the post of Clerk on the basis of seniority amongst the eligible Class-IV employees working in the establishment at that time and accordingly, he was paid salary of Peon for the period, he worked as a Peon and salary for Clerk for the period, he remained posted as Clerk. The petitioner had joined as Peon

on 31.08.1981 and remained posted as Peon till 20.12.1997.

The claim put forth by the petitioner that he was put under the charge of clerical job w.e.f. June, 1986 to December, 1997, is baseless and not sustainable in the eyes of law.

6. The petitioner filed rejoinder to the reply and controverted the averments made in the reply.

7. I have heard the learned counsel for the parties and also perused the record carefully.

8. The petitioner had instituted the present petition before the H.P. Administrative Tribunal under Section 19 of the Administrative Tribunals Act, 1985. As per the provisions contained in the Administrative Tribunals Act, 1985 (in short "the Act"), especially Section 21 provides the limitation to institute the application. The Tribunal shall not admit an application, in case, where a final order has been made in connection with the grievance made by the person within one year from the date on which such final order has been made. Further, in case, where an appeal or representation has been made and a period of six months had expired thereafter,

without final order having been made thereon, an employee within one year from the date of expiry of the said period of six months can file the original application. However, in the present case, the petitioner had raked up the issue with respect to the claim regarding grant of monetary benefit of the pay of Clerk on the principle of doctrine of "equal pay for equal work" for the first time by making a representation on 23.06.2010 (Annexure A-7) i.e. few days before his retirement on 30.06.2010. He did not prefer the original application within one and half years from making the representation. Thereafter, he made second representation on 24.05.2017 (Annexure A-9) and there is no whisper in the entire original application that why did he not approach the Tribunal earlier. As mentioned above, once Section 19 of the Act, provides the period of limitation, the petitioner having not raked up the issue for grant of the benefit to him on the principle of doctrine of "equal pay for equal work", within the period of limitation prescribed under the Act, his claim cannot be entertained.

9. A seven-Judge Bench of the Hon'ble Supreme Court in **S.S. Rathore versus State of Madhya Pradesh, AIR 1990 SC 10** has considered the ambit and scope of Section 21 of the Act and held that the cause of action arises when the order of the higher authority where a statutory remedy is provided by way of an appeal or representation is passed and that repeated representation shall not be taken into consideration in the matter of fixing limitation. In the present case, the petitioner made the first representation on 23.06.2010 and thereafter did not approach the Tribunal within the statutory period of one and half years, after making the representation and made second representation on 24.05.2017 (Annexure A-9) and thus, the original application was not maintainable. Not only this, there is no whisper in the entire original application that why did he not approach the Tribunal well within time.

10. No doubt after the abolition of the Tribunal, the original application has been transferred to this Court and has now been registered as present petition, but the

petitioner has to cross the hurdle of limitation before agitating the matter on merits. It is true that there is no period prescribed to entertain the petition under Article 226 of the Constitution of India, but at the same time, the petition can be entertained only within a reasonable time. If the litigant does not approach the Court within a reasonable time, his dispute can be rejected on the point of delay and laches.

11. In the present case, the petitioner was promoted to the post of Clerk, as per office order dated 20.12.1997. Immediately thereafter he could have claimed that the wages of the post of Clerk on the principle of "equal pay for equal work", if he had worked and discharged the duties on the post. As already observed above, he made a first representation on 23.06.2010 i.e. about few days before his retirement on 30.06.2010 and when no decision was taken, he again made a representation on 24.05.2017 after about 7 years and there is no murmur in the entire original application that why did he not come to the Tribunal, in case,

his first representation was not decided by the respondents.

12. Learned counsel for the petitioner has drawn the kind attention of this Court to the judgment passed by the Hon'ble Supreme Court in ***Union of India and others vs. Tarsem Singh, (2008) 8 SCC 648***, to contend that the relief claimed cannot be rejected on the ground of delay and laches, since the non-grant of the wages on the principle of "equal pay for equal work" is affecting the pension of the petitioner, which he is receiving every month. The Hon'ble Supreme Court in the aforesaid judgment has held that the claim cannot be rejected on the ground of delay and laches, where it pertains to the re-fixation of pay or pension, but in the present case, once the petitioner had not raked up the issue regarding the payment of salary for the post of Clerk even when he was promoted to the post of Clerk, vide office order dated 20.12.1997, the ratio laid down in the aforesaid judgment is not at all attracted to the facts of the present case. The Hon'ble Supreme Court has held that the arrears can be restricted to three years prior to filing the petition. In the

present case, the petitioner has claimed the wages of the post of Clerk prior to his promotion to the post of Clerk in the year 1997 and original application was filed in the year 2018 and thus, the ratio laid down in the aforementioned judgment is not all attracted.

13. It is by now settled in catena of judgments that repeated representations cannot extend the period of limitation. Firstly, in case the petitioner was not granted the benefit of the pay scale of the post of Clerk even if he was discharging the duties on the said post, he ought to have come immediately after being denied the said benefits. Secondly, when he was promoted to the post of Clerk on the recommendations of the Departmental Promotion Committee, vide office order dated 20.12.1997, he could have approached the competent Court of law. Since the petitioner did not approach the Tribunal within the period of limitation as prescribed under the Act and there is no explanation in the original application in approaching the Tribunal late, the petition deserves to be dismissed on the ground of delay and

laches alone without venturing to return any findings on the merit of the case.

14. Consequently, in view of above observations, the petition is dismissed on the ground of delay and laches. No order as to costs. Pending application(s), if any, shall also stand disposed of.

07th July, 2026

(ankit)

**(Jiya Lal Bhardwaj)
Judge**