

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

LPA No.396 of 2026
Decided on : 14.07.2026

Kashmir Singh

...Appellant

Versus

State of HP and Ors.

...Respondents.

Coram

Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.

Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?¹

For the appellant : Mr. Rakesh Kumar Dogra, Advocate.

For the respondents : Mr. Arsh Rattan, Deputy Advocate
General, for respondents No.1 to 3.

Mr. Rangil Singh, Advocate, for
respondent No.4.

G.S. Sandhawalia, Chief Justice (Oral)

By way of the present appeal, a challenge has been laid to the impugned order dated 26.05.2026, passed in ***CWP No.7631 of 2023***, titled ***Kashmir Singh Vs. State of HP and Ors.***, whereby the learned Single Judge had upheld the order dated 14.01.2019 (Annexure P-3), wherein the restriction of the claim of the petitioner had been fixed to three years prior to the filing of the OA No.5106 of 2017 before the erstwhile HP State Administrative Tribunal.

¹ Whether the reporters of the local papers may be allowed to see the Judgment? Yes

2. The reason which weighed with the learned Single Judge in declining the benefit as such was that the Original Application was filed, based upon the case of one Sh. Hari Dutt i.e. OA(M) No.351 of 1997, which was filed in the year 1997 and was upheld on 11th of January, 2008 by this Court in **CWP No.1744/2003, titled State of HP and Ors. Vs. Hari Dutt.**

3. The appellant had approached the Court after 9 years and, therefore, he did not deserve any premium, and there was no arbitrariness or illegality in the order of the authority restricting the monetary benefits to 3 years, preceding the filing of the Original Application.

4. In this regard, reliance had been placed upon the authoritative pronouncement of the Apex Court in **Union of India and others v. Tarsem Singh (2008) 8 SCC 648**, regarding the principles underlying continuing wrong and recurring/successive wrongs and a delay in seeking the remedy, and the restriction as such to a period of three years prior to the date of filing of the litigation, while dismissing the writ petition. Liberty was given to agitate for the revision of arrears from 01-01-2006 by approaching the Authority concerned.

5. Learned counsel for the appellant has argued that when the direction was issued on 4th of October, 2017 by the erstwhile Tribunal, the same was in an affirmative sense that the case had to

be disposed of in terms of the directions, subject to verification as to similarly situated and benefit of the said order and judgment had to be extended along with consequential benefits. It is in such circumstances that argument is raised that consequential benefits should be the same as granted to Hari Dutt, and benefit should be from the year 1996.

6. The perusal of the order dated 14th of January, 2019, which was the subject matter of consideration before the learned Single Judge, having been challenged by the petition filed, would go on to show that the appellant had been offered a post of Fitter Grade-I in work-charged category of Irrigation and Public Health Department in the pre-revised pay scale of Rs.4020-6200/- with effect from 01-01-1996, and with effect from 19th of June, 2001, work-charge was converted into the regular establishment. The claim of arrears had been restricted to 3 years from the date of filing of the Original Application, which was in the year 2017.

7. It is not disputed that the appellant had not agitated for his grievances at an earlier point of time, and had come to Court solely on the strength of the litigation, which had been initiated by Hari Dutt, who had been agitating for his grievances since 1997 by approaching the Tribunal at that point of time. Only because he had got certain benefits as such, and which had been affirmed by this Court in the year 2008, the present appellant had initiated his

litigation by filing the Original Application in the year 2017, and it is to be noticed that he had already retired on 31st of August, 2016, which is clear from the impugned order dated 14.01.2019 (Annexure P-3). In such circumstances, he can be considered a fence-sitter and in spite of that, the State as such gave him the benefit by restricting the claim of arrears to three years from the date of filing of the Original Application.

8. The Apex Court in the authoritative pronouncement in ***State of UP v. Arvind Kumar Srivastava, (2015) 1 SCC 347***, while dealing with the issue, has held that the issue of delay and laches as well as acquiescence, and the persons who do not challenge wrongful action are to be treated as fence-sitters and cannot claim parity with similarly situated persons, and that it would be a valid ground to dismiss their claim. Principles have been laid down as under:-

"22.1 Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of [Article 14](#) of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other

similarly situated persons did not approach the Court earlier, they are not to be treated differently.

22.2 However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

9. In such circumstances, it can safely be said that restricting the claim to three years as such was justified, as the petitioner had never approached the Court as such along with the similarly situated person, who had been agitating for his grievances for a long time since 1997.

10. Learned counsel for the appellant has placed reliance upon the judgment passed by a Single Judge of this Court in **Civil Writ Petition(OA) No.5637/2019, titled Balak Ram Vs. Secretary (Forests) to the Govt. of HP and Ors.**, decided on 17th of September, 2020, as such. However, the same has no application in the case at hand, since it was an issue of a recovery

being done from an employee and in such circumstances, the issue of amount, which had been already paid to the employee, and the consequential benefits as such, certain observations had been made, whereby it was held that having been entitled for the work-charge status by the State itself, and on receiving the clarification and having calculated the amount, the same could not be recovered by the Department and the whole amount had to be released. In such circumstances, the said judgment is not applicable and we do not find any infirmity in the order of the learned Single Judge.

11. Thus, for the aforesaid reasons, we are of the considered view that the present appeal is bereft of merits. Therefore, the same is dismissed accordingly. Pending applications, if any, also stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

14th July, 2026
(Gaurav Rawat)