

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**

Sr. No.: 223

**Civil Writ Petition No.19477 of 2015 (O & M)**

**Date of Decision:** *July 07, 2017*

Smt. Kaushalya

..... PETITIONER

*VERSUS*

State of Haryana & others

..... RESPONDENTS

...

**CORAM:**      **HON'BLE MR. JUSTICE JASPAL SINGH**

...

**PRESENT:** - Mr. Vikas Lochab, Advocate, for the petitioner.

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**Jaspal Singh, J**

1.                    By virtue of instant petition preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ in the nature of mandamus seeking direction to the respondents to pay the amount of full salary for the period w.e.f. September 15, 1992 to November 21, 1995 alongwith interest, during which, services of petitioner's husband were terminated. However, in appeal, he was reinstated with punishment of stoppage of two increments with cumulative effect.

2.                    The contention of learned counsel for the petitioner is that petitioner's husband was working as Conductor in Haryana

Order Sr. No.3454/ECC dated September 15, 1992 by the General Manager, Haryana Roadways, Kurukshetra. Thereafter, he approached the head office and vide order Sr. No.9336/38/A4/A3 dated September 14, 1995, he was reinstated. However, his two increments with cumulative effect were stopped. Thereafter, husband of the petitioner joined his duties on November 22, 1995 at Kurukshetra Depot. Unfortunately, petitioner's husband expired on June 11, 2007.

3. The grievance of the petitioner is that her husband was reinstated into service by the appellate authority and his two increments with cumulative effect were stopped but during the interregnum period i.e. September 15, 1992 to November 21, 1995 nothing has been paid. Since the termination order passed by the General Manager, Haryana Roadways, Kurukshetra has been set aside and only his two increments with cumulative effect have been stopped, petitioner's husband was entitled to salary for the aforesaid period. However, only subsistence allowance was paid to him.

4. This Court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioner and find the same to be of no legal and factual weight.

5. Undoubtedly, service of petitioner's husband were terminated by the General Manager, Haryana Roadways, Kurukshetra but he was ordered to be reinstated vide order dated September 14, 1995 while imposing punishment only to the extent of stoppage of two increments with cumulative effect. The order which has been challenged through the instant petition dates back to September 14,

1995 i.e. the same has been challenged after a gap of approximately two decades. After passing of order dated September 14, 1995, petitioner's husband survived till June 11, 2007 but during his life time, he did not opt to challenge the said order to claim any benefit and similarly after demise of petitioner's husband, she did not challenge the aforesaid order, for the reasons best known to her, prior to filing the petition.

6. In case ***S.S. Rathore vs. State of Madhya Pradesh, AIR 1989 Supreme Court 10***, the Full Bench of Hon'ble Apex Court has held that where a statutory remedy is provided in the service rules or other law, the aggrieved employee can approach the court for redressal of his/her grievance within a period of three years from the date of accrual of cause of action. In the said case, civil writ petition was held to be hopelessly time barred and also suffering from the vice of delay and laches, therefore, the civil writ petition was rejected with costs. Similarly, in another case ***Chairman, U.P. Jal Nigam & another vs. Jaswant Singh & another, 2007(1) SCT 224; 2006(11) SCC 464***, it was observed that the litigant who is guilty of long delay and laches is deemed to have acquiesced or waived off his claim or right. The Hon'ble Apex Court has gone to the extent while holding that those who initiated action in time and got the relief from the court, similar orders cannot be claimed ignoring the long and unexplained delay by others also who were not vigilant enough. In another case ***Brijesh Kumar & others vs. State of Haryana & others, 2014(11) SCC 351***;

**2014(4) Scale 50**, while dealing with the law of limitation, especially the delay and latches, the Hon'ble Apex Court observed the following:-

“(i) The law of limitation is enshrined in the legal maxim “Interest Reipublicae Ut Sit Finis Litium” (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, rather the idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

(ii) A law of limitation and prescription may appear to operate harshly and unjustly in a particular case, but if the law provides for a limitation, it is to be enforced even at the risk of hardship to a particular party as the Judge cannot, on applicable grounds, enlarge the time allowed by the law, postpone its operation, or introduce exceptions not recognized by law. AIR 1941 PC 6, 1997 (4) RCR (Civil) 242, relied.”

7. Adverting to the facts of the case in hand, the order which is sought to be challenged through the instant petition, preferred in the month of September 2015, dates back to September 14, 1995, meaning thereby that there is a delay of approximately two decades which is absolutely unexplained; firstly on the ground of delay and latches, the instant petition is not maintainable; and secondly, the petitioner is not entitled to the relief claimed in view of impugned order dated September 14, 1995, operative part of which reads as under:-

“..... After hearing Sh. Sukhbir Singh personally and on the perusal of the record I hereby reinstate Sh. Sukhbir Singh on the post of the conductor. however, his two annual increments be stopped. The suspension allowance be given for the suspension period and nothing shall be paid for the period during which he was out of service. The General Manager, Haryana Roadways, Kurukshetra is directed that if Sh. Sukhbir Singh is found acting in contrary to his assurance, his services be terminated and the Head Quarter be informed accordingly.”

8. A glance at the aforesaid order transpires that the matter with regard to the payment of period under suspension was considered

by the appellate authority and only the subsistence allowance was ordered to be given for the suspension period and it was categorically mentioned that “nothing shall be paid during which he was out of service”. The said order is still operative being un-challenged. Now after 20 years, the petitioner cannot lay any claim.

9. In the light of what has been discussed above, the instant petition being devoid of any merit is dismissed.

**July 07, 2017**  
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**(Jaspal Singh)**  
**Judge**

Whether Speaking/ Reasoned:  
Whether Reportable:

Yes/ No  
Yes/ No