

**120            IN THE HIGH COURT OF PUNJAB AND HARYANA  
                 AT CHANDIGARH**

**CWP No. 22399 of 2017  
DECIDED ON: SEPTEMBER 29, 2017**

**CHAMAN LAL & OTHERS**

**.....PETITIONERS**

**VERSUS**

**PUNJAB STATE POWER CORPORATION LTD.**

**.....RESPONDENT**

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

Present:    Mr. Rajesh K. Dadwal, Advocate  
                 for the petitioners.

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**JASPAL SINGH, J (ORAL)**

By virtue of instant petition preferred under Articles 226/227 of the Constitution of India, petitioners have sought a writ of mandamus directing the respondents to grant them pay on the doctrine of parity as has already been given to the similarly situated persons AND also to grant them pensionary benefits i.e. revised pension, leave encashment and entire arrears etc; that too, along-with interest @ 18% per annum in view of order dated January 21, 2010 (P-1), passed in CWP No. 9294 of 1993 as well as order dated May 21, 2015 (P-2) passed in CWP No. 27463 of 2013.

2.            The petitioners stood retired from service on July 31, 2009, December 31, 2010 and March 31, 2011 on attaining the age of superannuation.

The grouse with regard to grant of pay on the basis of parity as well as revised

pension, leave encashment etc. has been ventilated for the first time through the instant petition in the month of September 2017, after a period of more than five years. As such, apparently, there is a delay and laches on the part of petitioners in approaching the Court.

3. In the case of **Union of India vs. Tarsem Singh, (2008) 8 SCC 648**; the Hon'ble Apex Court has held as under;

*“7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several other also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.”*

4. Thus, in the light of afore-said observation, it can be said that

normally a belated service related claim will be rejected on the ground of delay and laches or limitation. One of the exceptions to the said rule is, cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which relates to or affected several others also, and if the re-opening of the issue would affect the settled rights of third parties, then the claim will not be entertained. Thus, in case of payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. In so far as the consequential relief of recovery of arrears for a past period, the principles relating to recurring/successive wrongs will apply. As a consequence thereof, consequential relief in respect of arrears can be restricted to a period of 38 months prior to the date of filing of the writ petition, in view of Full Bench judgment passed by this Court in the case of **Saroj Kumari vs. State of Punjab;** **1998 (3) SCT 664.** .

5. Adverting to the facts of the case in hand, petitioners are seeking the grant of pay on parity basis and revised pension, leave encashment etc. as well as arrears etc. Thus, the grant of benefit sought by the petitioners through the instant petition is likely to affect the other persons also. However, their claim

for the consequential relief in respect of arrears can be restricted to 38 months, in view of dictum laid down in the afore-said judgments.

6. Undisputably, petitioners served a legal notice dated March 08, 2017 (Annexure P-3) upon the respondents which neither fetch any reply nor any conscious decision has been taken by the authorities concerned so far. Moreover, petitioners also feel satisfied in case a direction is issued to respondent to consider and decide the legal notice (Annexure P-3) within a stipulated period.

7. Accordingly, instant petition is disposed of with a direction to respondent to look into the grievances unfolded by the petitioner in the legal notice dated March 08, 2017 (Annexure P-3) and to take a conscious decision within a period of three months from the date of receipt of certified copy of this order in accordance with law by passing a speaking order; that too after hearing the petitioners. In case the authority comes to the conclusion that petitioners are entitled to the relief(s) claimed by them, the arrears thereof, shall stand restricted to a period of 38 months prior to the date of filing of instant writ petition, in view of above-said discussion, as well as the dictum laid down in the afore-said judgments. However, in case petitioners still feel aggrieved of the order passed by the authority concerned, they shall be at liberty to approach this Court.

**SEPTEMBER 29, 2017**  
**sham**

**(JASPAL SINGH)**  
**JUDGE**

*Whether speaking/reasoned*      *Yes/No*  
*Whether reportable*              *Yes/No*