

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

**LPA No. 1251 of 2016 (O&M)
DECIDED ON: OCTOBER 22, 2018**

SAVITA SHARMA

.....APPELLANT

VERSUS

STATE OF PUNJAB & OTHERS

.....RESPONDENTS

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present : Mr. Nirmal Singh, Advocate
 for the petitioner.

 Mr. Sandeep Vermani, Addl. AG, Punjab.

AVNEESH JHINGAN, J

 This *intra-court* appeal has been filed against the order dated
25.05.2016 passed by learned Single Judge.

2. The petitioner-appellant filed a writ petition seeking direction to the
respondents to grant her the benefit of proficiency step-ups on completion of 24
and 32 years of service under the Assured Carrier Progression Scheme dated

25.09.1998.

3. The appellant was appointed as Science Mistress on regular basis on 03.03.1976. She was promoted as Headmistress on 31.03.2000, but she did not join the said post. She was debarred for promotion for two years vide order dated 11.05.2000 alongwith other similarly situated employees on the ground that they had not availed and joined as Headmistress on their promotion under Rule 18 of the Punjab Civil Services General & Common Conditions of Service Rules, 1994. On the basis of her seniority and merit, she was again promoted as Headmistress vide order dated 10.04.2008. The appellant joined as Headmistress at Government High School Umaidpur Tibba, District Ludhiana on 11.04.2008. She retired on attaining the age of superannuation on 31.01.2009. She was granted pension and other pensionary benefits.

4. The Punjab Government vide circular dated 25.09.1998 granted proficiency step-up under the recommendations of 4th Pay Commission after 8-16-24-32 years of service in a cadre. Step-up was to be given w.e.f. 01.01.1996 under Assured Career Progression Scheme. The appellant was granted the proficiency step-up for 8 and 16 years of service but she was not granted the proficiency step-up for 24 and 32 years of service in the cadre of Mistress. After serving a legal notice on 29.04.2016, writ petition bearing CWP No. 10450 of 2016 was filed. The said writ petition was dismissed vide order dated 25.05.2016 by this Court. The claim of the petitioner was found stale and dead.

5. Aggrieved of the dismissal of writ petition, present Letters Patent Appeal has been filed.

6.

Learned counsel for the appellant contended that the learned Single

Judge erred in dismissing the writ petition on the ground of delay and laches, as the benefits due were recurring in nature. He relied upon the decision of Supreme Court rendered in case of “**Union of India and others vs. Tarsem Singh**”; 2008 (8) SCC 648.

7. The contention raised by learned counsel for the appellant lacks merit.

8. The right to have proficiency step-up accrued to the appellant in the year 1998. The petitioner retired as Headmistress in January 2009. It was only in 2016 that a legal notice was issued and thereafter, a writ petition was filed. The claim of the appellant is only with regard to the payment of money and enhancement of dues. The learned Single Judge relied upon the decision of Supreme Court rendered in the case of “**State of Madhya Pradesh vs. Bhailal Bhai & others**; AIR 1964 SC 1006, and held that if a suit does not lie, the writ will ordinarily be refused. Further reliance was placed upon the decision of Supreme Court rendered in the case of “**State of U.P. & others vs. Arvind Kumar Srivastava & others**; (2015) 1 SCC 347. It was held that not all money claims arising out of rights such as proficiency step-ups and benefits of Assured Carrier Progression Schemes are recurring in nature. The writ petition was dismissed having filed after a passage of in-ordinate delay rendering the claim stale and dead.

9. The reliance of the appellant on **Tarsem Singh's case (supra)** does not advance her case. In the said pronouncement, Tarsem Singh filed a petition for direction to pay him disability pension. The learned Single Judge of the High Court restricted the arrears to 38 months prior to filing of the writ petition,

as the claim was made after 16 years. The Division Bench in LPA held that Tarsem Singh would be entitled to disability pension from the date, it fell due and also granted interest @6% per annum. The said order was challenged before the Supreme Court. The only issue considered was whether payment of entire arrears was to be made as restricted to three years. The Supreme Court held that delay of 16 years would affect the consequential claim of arrears and it was also held that High Court was not justified in directing payment of arrears for a period of 16 years and that too, with interest. The cited case is not applicable to the facts and circumstances of the present case.

10. There is no error in the impugned order passed by learned Single Judge. Accordingly, the present Letters Patent Appeal, is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

OCTOBER 22, 2018
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<i>Whether speaking/reasoned:</i>	<i>Yes / No</i>
<i>Whether reportable :</i>	<i>Yes / No</i>