

CWP No.2796 of 2020  
Date of Decision: 03.02.2020

Qimti Lal Jain

.....Petitioner

Versus

The Power Utility Company Ltd. And others

.....Respondents

**CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR**Present: Mr. Roshal Lal Sharma, Advocate  
for the petitioner.**NIRMALJIT KAUR, J. (ORAL)**

The present writ petition is filed for directing respondent Nos.1 and 2 to consider the case of the petitioner for promotion as Junior Engineer Grade I when junior persons were promoted as JE Class-I on dated 19.07.1979 and as Assistant Engineer on dated 07.01.1988.

Admittedly, the petitioner retired in the year 2003. He neither claimed his seniority while he was in service nor after his retirement. He approached the Court for the first time when he filed an earlier writ petition bearing CWP-28510-2018, which was disposed of on 12.11.2018 by directing the respondents to look into the representation dated 30.04.2015 and legal notice dated 16.06.2015. The said representation/legal notice have been dismissed on the ground of delay and laches. This Court in the case of O.P. Sardana Vs. Haryana Sahari Vikas Pradhikaran and others, CWP No.37452 of 2019, decided on 29.01.2020, held as under:

“In the case of Tarsem Pal vs. Punjab State Power Corporation Limited and others, 2013(3) SLR 314, the petitioner was serving as a Clerk with the Punjab State Power Corporation Limited and retired on 31.3.2005. He

filed the writ petition after more than five years of his retirement praying for grant of proficiency step up in the pay scale on completion of 23 years of service. The same was dismissed by holding in para No.12 as under:-

“The petitioner retired from service on 31.3.2005 and the claim pertaining to the benefit of proficiency step up, which may be admissible to the petitioner during his service career, was sought to be raised more than five years after his retirement, the claim made at such a later stage deserves to be dismissed on account of delay and laches only. The petitioner could raise a grievance about the pay scales admissible to him or the last pay drawn by him within a reasonable time after his retirement. He cannot be permitted to raise the same at any time on the plea that the same is recurring cause of action.”

The issue of delay after taking into consideration the judgment rendered by the Hon'ble Apex Court in the case of M.R. Gupta Vs. Union of India and others, 1995 (4) RSJ 502, and placing reliance on the judgment rendered by the Hon'ble Apex Court in the case of Jagdish Lal Vs. State of Haryana, (1997) 6 SCC 538, the Co-ordinate Bench of this Court in the case of Prem Nath and others Vs. State of Punjab and others, CWP No.9025 of 2016, decided on 14.07.2017, dismissed the petition on the question of delay, wherein the petitioner chose to agitate only after the retirement, by observing as under:-

“9. At this stage, counsel appearing for the petitioners would make an attempt to overcome the obstacle of delay by placing reliance upon a Full Bench Judgment of this Court in **Saroj Kumar vs. State of Punjab, 1998(3) SCT 664**. Counsel would argue that as

per dictum laid down in *Saroj Kumar's case(supra)*, matters of pay fixation involve a recurring cause of action and as such, writ petitions for such claim cannot be dismissed on the ground of delay and laches and the Court at the most, may restrict the arrears upto 38 months from the date of filing of the petition and disallow the arrears for the period for which even a suit had become time barred.

10. The reliance placed by counsel upon the judgment in *Saroj Kumar's case*, is wholly misplaced . The observations and aspect of delay in *Saroj Kumar's case*, were in the light of the judgment of the Supreme Court in **M.R. Gupta vs. Union of India and others, 1995(4) RSJ 502**. In *M.R. Gupta's case(supra)*, it had been categorically held that so long as an employee “is in service” a fresh cause of action arises every month when he is getting his monthly salary on the basis of a wrong calculation made contrary to rules. It was further held that the claim to be awarded the correct salary on the basis of a proper pay fixation “*is a right which subsists during the entire tenure of service*”.

11. In the present case, however the petitioners choose not to agitate their claim while in service. It is much subsequent to their superannuation that they have woken up and seek to gain impetus from certain decisions that may have been rendered in the case of similarly situated employees.

12. Considering the dictum of law as laid down in *Chariman, U.P. Jal Nigam's case (supra)*, the petitioners herein are not entitled to any relief as prayed for and the petition deserves to be dismissed on the sole ground of delay and laches.”

In the present case also the petitioner has approached after 17 years of his retirement and that too for promotion when his junior was promoted way back in 1988, whereas, he retired in 2003. Thus, no ground is made out to interfere with the order passed by the respondents.

Dismissed accordingly on the ground of delay and latches.

**03.02.2020**  
*sandeep*

**(NIRMALJIT KAUR)**  
**JUDGE**

|                           |   |        |
|---------------------------|---|--------|
| Whether Speaking/Reasoned | : | Yes/No |
| Whether Reportable        | : | Yes/No |