

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

CWP No.6986 of 2020

Date of Decision: 18.3.2020

Munni Devi

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Subham Saroha, Advocate for
Mr. Shish Pal Laler, Advocate, for the petitioner.

NIRMALJIT KAUR, J. (Oral)

Prayer in the present petition is two fold. Firstly, the deceased-husband of the petitioner was entitled to the grant of pay scale of ₹ 7500-12000/- w.e.f. 1.1.1996. Secondly, he was also entitled to increment for higher responsibility on his promotion as Principal.

Admittedly, the husband of the petitioner died in the year 2010. The right to pay scale as prayed for and if at all, accrued to him during his life time and that too in the year 1996 itself. He chose not to challenge the same and accepted the pay scale that he was already getting. The petitioner, who is wife of the deceased, also continued to receive the full salary of deceased husband from the date of his death in the year 2016 up till deemed date of his superannuation i.e. May 2016. She too, during this period, did not come forward to make the claim. Today, we are in the year 2020. Therefore, the very claim is belated and deserves to be rejected on the ground of delay and latches.

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 latches.”

The second prayer qua grant of additional increment for higher responsibility on his promotion as Principal, too is belated. Admittedly, the husband of the petitioner was promoted as Principal in the year 2006. He died in the year 2010. He made no claim for the additional increment. The second prayer too therefore, deserves to be rejected for the same reason vide which the first prayer has been rejected i.e. on account of delay and latches.

Dismissed accordingly.

(NIRMALJIT KAUR)
JUDGE

18.3.2020
sharmila

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