



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.24746 of 2024 (O&M)
Reserved on: 25.09.2024
Decided on: 01.10.2024

Darshan Singh
.....Petitioner
Versus
Punjab State Power Corporation Limited and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Rajinder Kumar Singla, Advocate
for the petitioner.

Mr. Kunal Mulwani, Advocate
for the respondents.

NAMIT KUMAR J. (Oral)

1. The instant petition has been filed by the petitioner under Articles 226/227 of the Constitution of India, for issuance of a writ in the nature of mandamus, directing the respondents to refix the salary of the petitioner after granting him the benefit of promotional increment on completion of 23 years of service and to make the payment of arrears of the same, along with interest @ 6% per annum.
2. Brief facts, as have been pleaded in the present petition, are that the petitioner was appointed as Lower Division Clerk on 08.05.1974 and he was given annual grade increments from time to time. During the tenure of his service, the petitioner opted for new revised scale w.e.f. 01.05.1986 and consequent upon the grant of proficient increment to the petitioner, vide office order No.139 dated

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17.01.1990, the basic pay of the petitioner was increased from 1260 to 1290 w.e.f. 01.05.1986 and he was given the pay scale of Junior Assistant i.e. 1500-2640 and similarly, vide office order No.1275 dated 17.06.1992, the petitioner was give second higher time bound scale w.e.f. 08.05.1990. Thereafter, the petitioner was transferred from Thermal Plant, Ropar to Guru Nanak Dev Thermal Plant, Bathinda and vide office order No.299 dated 19.10.1993, the basic pay of the petitioner was fixed on 31.10.1993 at Rs.1840 and the next date of increment was due on 01.05.1995. Thereafter, the petitioner cleared his paper of Departmental Examination and was given annual grade increment and on 30.04.1998, the pay of the petitioner was refixed. The petitioner had foregone his promotion from Lower Division Clerk to Upper Division Clerk for 03 years, which was approved vide order dated 22.01.2001. Thereafter, the petitioner was promoted as Upper Division Clerk on 09.09.2004 but vide office No.9/77 dated 02.05.2007, the second time bound scale, which was to be given on completion of 16 years of service, was put on hold in view of the fact that the petitioner had foregone his promotion from Lower Division Clerk to Upper Division Clerk. Thereafter, vide office order No.1252 dated 03.11.2008, the pay of the petitioner was reduced from 1760 to 1640 onwards w.e.f. 08.05.1990 upto 01.05.2008. Later on, vide order dated 06.10.2009, the second time bound scale which was put on hold vide office order No.1275 dated 17.06.1992, was cancelled. Thereafter, on attaining the age of superannuation, the petitioner retired from service on 30.04.2010,

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however, the benefit of promotional increment on completion of 23 years of service was not granted to the petitioner. Hence, this writ petition.

3. Learned counsel for the petitioner submits that the petitioner had joined the respondent-Corporation on 08.05.1974 and completed 23 years of regular service in the year 1997 and as per the letters/circulars, issued by the respondent-Corporation, the petitioner deserves to be granted 23 years promotional scale on completion of 23 years of regular service. However, the said benefit has not been granted to him. The respondent-Corporation is causing distinction between the same set of employees as the similarly situated employee namely Balvir Singh Brar, who joined as LDC on 13.08.1974, was given the benefit of promotional increment on completion of 23 years of service and the respondent – Corporation being a statutory body cannot be allowed to give different treatment to similarly situated employees. He further submits that the petitioner time and again visited the office of respondent – Corporation for fixing his correct pay and making payment of the arrears but to no avail and ultimately, the petitioner sent a legal notice dated 15.06.2024 to the respondent-Corporation, which was replied back stating therein that in view of Finance Circular No.20/2000 dated 28.07.2000, the petitioner is not entitled for promotional increment on completion of 23 years of service. Lastly he submits that the respondent – Corporation is causing discrimination amongst the similarly situated employees. He further submits that since the petitioner

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is suffering financially on daily basis and having effected the pension benefits, therefore, it is a recurring cause of action, and the claim of the petitioner cannot be rejected solely on the ground of delay and laches. In support of his contentions, he has placed reliance upon the judgment of Hon'ble Supreme Court in ***“Union of India and others vs Tarsem Singh”***, 2008(4) SCT 19, as well as this Court in ***“Balwant Singh vs State of Haryana and others”***, 2011(2) SCT 285, ***“Rattan Chand vs Punjab State Electricity Board and others”***, 2011(1) SCT 833 and ***“Amar Nath Gujjar vs Union of India and others”***, 2021(1) SCT 468.

4. Per contra, learned counsel for the respondents, who has caused appearance on behalf of the respondents on the strength of advance copy having been served upon him, has opposed the submissions made by learned counsel for the petitioner and submits that the petitioner stood retired on 30.04.2010 and since there is inordinate and gross delay of more than 14 years in filing the present writ petition for espousing his cause, therefore, the same is liable to be dismissed on the ground of delay and laches.

5. I have heard learned counsel for the parties and perused the record.

6. The petitioner is claiming 23 years promotional scale, which is within the realm of the respondent-Corporation. Moreso, the present writ petition deserves to be dismissed on the ground of delay and laches as the petitioner retired from the respondent–Corporation, on attaining the age of superannuation, on 30.04.2010 and the present writ

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petition has been filed on 23.09.2024, after a period of more than 14 years from the date of his retirement.

7. The petitioner cannot be allowed to agitate the stale issues at this stage. If the claim of the petitioner was genuine, he could have agitated the same during his service tenure or within reasonable time.

8. The Hon'ble Supreme Court in "***Yunus (Baboobhai) A Hamid Padvekar vs State of Maharashtra Through its Secretary and others***", passed in **Civil Appeal No.486 of 2009 (arising out of SLP (C) No.1160 of 2005)**, decided on 28.01.2009, while referring to the issue of delay and laches, had held as follows:-

*"8. Delay or laches is one of the factors which is to be borne in mind by the High Courts when they exercise their discretionary powers under Article 226 of the Constitution of India, 1950 (in short the 'Constitution'). In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in **Durga Prasad v. Chief Controller of Imports and Exports (AIR 1970 SC 769)**. Of course, the discretion has to be exercised judicially and reasonably.*

*9. What was stated in this regard by Sir Barnes Peacock in **Lindsay Petroleum Company v. Prosper Armstrong Hurde etc. (1874) 5 PC 221** at page 239 was approved by this Court in **Moon Mills Ltd. v. Industrial Courts (AIR 1967 SC 1450)** and **Maharashtra State***



Transport Corporation v. Balwant Regular Motor Service (AIR 1969 SC 329), Sir Barnes had stated:

"Now the doctrine of laches in Courts of Equity is not an arbitrary or technical doctrine. Where it would be practically unjust to give a remedy either because the party has, by his conduct done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, if founded upon mere delay, that delay of course not amounting to a bar by any statute of limitation, the validity of that defence must be tried upon principles substantially equitable. Two circumstances always important in such cases are, the length of the delay and the nature of the acts done during the interval which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy."

*10. It would be appropriate to note certain decisions of this Court in which this aspect has been dealt with in relation with Article 32 of the Constitution. It is apparent that what has been stated as regards that Article would apply, a fortiori, to Article 226. It was observed in **R.N Bose v. Union of India (AIR 1970 SC 470)** that no relief can be given to the petitioner who without any reasonable explanation approaches this Court under Article 32 after inordinate delay. It was stated that though Article 32 is itself a guaranteed right, it does not follow from this that it was the intention of the Constitution makers that this Court should disregard all principles and grant relief in petitions filed after inordinate delay.*



11. It was stated in ***State of M.P. v. Nandlal (AIR 1987 SC 251)*** that the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring in its trail new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction.

12. In view of the aforesaid position we are not inclined to interfere in this appeal which is dismissed accordingly.”

9. Further the Hon’ble Supreme Court in ***State of Uttaranchal and another v. Sri Shiv Charan Singh Bhandari and others, 2013(6) SLR 629***, while considering the issue regarding delay and laches and referring to earlier judgments on the issue, opined that repeated representations made will not keep the issues alive. A stale or a dead issue/dispute cannot be revived even if such a representation has been decided either by the authority or by getting a direction from the

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court as the issue regarding delay and laches is to be decided with reference to original cause of action and not with reference to any such order passed. Delay and laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India, in a situation of that nature, will not be attracted as it is well known that law leans in favour of those who are alert and vigilant. Even equality has to be claimed at the right juncture and not on expiry of reasonable time. Even if there is no period prescribed for filing the writ petition under Article 226 of the Constitution of India, yet it should be filed within a reasonable time. An order promoting a junior should normally be challenged within a period of six months or at the most in a year of such promotion. Though it is not a strict rule, the courts can always interfere even subsequent thereto, but relief to a person, who allows things to happen and then approach the court and puts forward a stale claim and try to unsettle settled matters, can certainly be refused on account of delay and laches. Any one who sleeps over his rights is bound to suffer. An employee who sleeps like Rip Van Winkle and got up from slumber at his own leisure, deserves to be denied the relief on account of delay and laches. Relevant paragraphs from the aforesaid judgment are extracted below:

“13. We have no trace of doubt that the respondents could have challenged the ad hoc promotion conferred on the junior employee at the relevant time. They chose not to do so for six years and the junior employee held the promotional post for six years till regular promotion took place. The submission of the learned counsel for the

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*respondents is that they had given representations at the relevant time but the same fell in deaf ears. It is interesting to note that when the regular selection took place, they accepted the position solely because the seniority was maintained and, thereafter, they knocked at the doors of the tribunal only in 2003. It is clear as noon day that the cause of action had arisen for assailing the order when the junior employee was promoted on ad hoc basis on 15.11.1983. In **C. Jacob v. Director of Geology and Mining and another, (2008) 10 SCC 115**, a two-Judge Bench was dealing with the concept of representations and the directions issued by the court or tribunal to consider the representations and the challenge to the said rejection thereafter. In that context, the court has expressed thus:-*

“Every representation to the Government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. In regard to representations unrelated to the Department, the reply may be only to inform that the matter did not concern the Department or to inform the appropriate Department. Representations with incomplete particulars may be replied by seeking relevant particulars. The replies to such representations, cannot furnish a fresh cause of action or revive a stale or dead claim.”

10. Further the Hon’ble Supreme Court in **“Union of India vs Surjit Kaur and another”, 2007(15) SCC 627**, while deciding the issue of limitation, has held as follows:-

“2. The only issue in this case relates to the question

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of limitation in relation to the respondent's assertion of her right to pension under the Freedom Fighters Pension Scheme. The respondent's husband had claimed that he was a freedom fighter. He applied for grant of pension under the Scheme. His application was rejected in 1973 on two grounds (1) that he had not undergone imprisonment for the period of six months, and (2) his annual income was more than Rs. 5000. The respondent's husband did not choose to challenge this order till the date of his death twenty years later, in 1993. In 1995 the respondent filed a suit in which she had claimed the pension. Her claim was decreed together with 18% interest. The appellant's appeal from the decree was dismissed on the ground that the loss of pension is a recurring loss and that the cause of action was a continuing one.

*3. The High Court erred in holding that the cause of action was a recurring one. A right to the pension should be asserted within the period of limitation. The right having been established, the right to receive the pension would then be a continuing one. The right not having been established within the period of limitation the suit of the respondent was clearly barred by limitation. We are fortified in our view by the recent decision of this Court in **Union of India v. Punjab Singh, (2003) 10 SCC 36 : (2003) 7 Scale 480 (2).***

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6. In the case before us, the respondent's husband's application was rejected in 1973 on merits. It is this rejection which gave rise to the cause of action for filing the suit. The respondent's husband did not challenge the decision for 20 years. Two years after his death, his wife purported to do so by filing a civil suit. The claim was

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barred under the Limitation Act, 1963 as the right to receive pension at all was in issue. The High Court erred in holding that the cause of action was a recurring one for the reasons already stated.”

11. In ***Bharat Sanchar Nigam Limited v. Ghanshyam Dass (2) and others***, (2011) 4 SCC 374, a three-Judge Bench of the Hon’ble Supreme Court reiterated the principle stated in ***Jagdish Lal v. State of Haryana***, (1997) 6 SCC 538 and proceeded to observe that as the respondents therein preferred to sleep over their rights and approached the tribunal in 1997, they would not get the benefit of the order dated 7.7.1992.

12. In ***State of T. N. vs. Seshachalam***, (2007) 10 SCC 137, the Hon’ble Supreme Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus:-

“... filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant.”

13. In ***New Delhi Municipal Council v. Pan Singh and others***, (2007) 9 SCC 278, the Hon’ble Supreme Court has opined that though there is no period of limitation provided for filing a writ petition under Article 226 of the Constitution of India, yet ordinarily a writ petition

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should be filed within a reasonable time. In the said case the respondents had filed the writ petition after seventeen years and the court, as stated earlier, took note of the delay and laches as relevant factors and set aside the order passed by the High Court which had exercised the discretionary jurisdiction.

14. In a recent judgment by the Division Bench of this Court in **“Ram Kumar vs State of Haryana and others”, 2022 (3) SCT 346**, while rejecting the claim of the petitioner for counting of his ad hoc service, for the purpose of seniority/pension and regularization in service on completion of 02 years as per policy, held that the petition filed by him suffered from gross, inordinate and unexplained delay in approaching the High Court. In the said judgment, it has been held as under:-

*“10. What we wish to emphasize, in particular, is that services of the appellant were regularized w.e.f. 01.04.1997. And, he was assigned a specific seniority position in the cadre. Whereafter, he continued to serve the department for nearly twenty five years, before attaining the age of superannuation in January, 2022. Needless to assert that during all these years, he availed all admissible benefits, promotions, and retired as Inspector. Thus, it rather appears that institution of the petition by the appellant was speculative and an attempt to resurrect a stale and dead claim. The Supreme Court, in **New Delhi Municipal Council v. Pan Singh & Ors., 2007(9) SCC 278**, observed:*

“15. There is another aspect of the matter which cannot be lost sight of. Respondents herein

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*filed a Writ Petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the Writ Petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the Court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction. See **Govt. of W.B. v. Tarun K. Roy And Others [(2004) 1 SCC 347]**, **Chairman, U.P. Jal Nigam & Anr. v. Jaswant Singh And Anr. [2006 (12) SCALE 347]** and **Karnataka Power Corpn. Ltd. through its Chairman & Managing Director and Another v. K. Thangappan and Another [(2006) 4 SCC 322]**”*

11. Similarly, in **Jagdish Lal & Ors. v. State of Haryana & Ors., (1997) 6 SCC 538**, it was held by the Supreme Court:

“That apart, as this Court has repeatedly held, the delay disentitles the party to the discretionary relief under Article 226 or 32 of the Constitution. It is not necessary to reiterate all catena of precedents in this behalf. Suffice it to state that the appellant kept sleeping over their rights for long and elected to wake up when they had the impetus from Vir Pal Chauhan and Ajit Singh’s ratios..... Therefore, desperate attempts of

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the appellants to re-do the seniority had by them in various cadres/grades though in the same services according to 1974 Rules or 1980 Rule, are not amenable to judicial review at this belated stage....”

12. *In the wake of the position as sketched out above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned single Judge. The appeal being bereft of merit is, accordingly, dismissed.”*

15. The Co-ordinate Bench of this Court in **“Prem Nath and others vs State of Punjab and others”**, 2018(2) SCT 687, while rejecting the claim of additional increments of acquisition of higher qualifications has held as under:-

*“3. It is the case set up on behalf of the petitioners that they had all been appointed before 19.02.1979 and had even improved/acquired higher qualifications before 19.02.1979 and as such there would be no difference between the employees working with the Punjab Government, holding corresponding post and the employees like the petitioners who have worked for Punjab Privately Managed Recognised Aided Schools. It is also the assertion made by counsel representing the petitioners that their claim would be covered in terms of decision dated 02.07.2013 rendered by this Court in a bunch of writ petitions including **CWP No.8083 of 1989 titled as Radha Krishan Narang and others vs. State of Punjab and others.***

4. Having heard counsel for the petitioners at length, this Court is of the considered view that the claim of the petitioners would not require any consideration on merits and the writ petition deserves to be dismissed on the sole ground of delay and laches.

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5. Placed on record and appended at Annexure P-1 are the particulars of the petitioners. The tabulation at Annexure P-1 would show that all the petitioners stand retired on various dates between the years 1995 to 2012. Out of 32 petitioners in all, 22 petitioners superannuated more than 10 years back.

6. There is no justification coming forth as regards the inordinate delay in having approached the Writ Court. There is also no explanation put forth by the petitioners as to why the claim raised in the instant petition was not agitated by the petitioners while they were in service. The entire thrust of the submissions advanced by counsel is that similarly situated employees had approached this Court and have been granted relief.

7. The issue regarding delay in invoking the extraordinary writ jurisdiction under Article 226 of the Constitution of India was considered by the Hon'ble Supreme Court in **Chairman, U.P. Jal Nigam and another v. Jaswant Singh and another (2006)11 SCC 464**. In such case, certain employees raised the issue that they were not liable to be retired at the age of 58 years but should be permitted to continue in service till they attain the age of 60 years. Such employees were still in service when the writ petitions were filed. The writ petitions were ultimately allowed. Placing reliance upon such judgment, some of the employees, who had already superannuated, filed writ petitions seeking the same benefit. Even such petitions were allowed by the High Court in terms of following the earlier judgment. The judgment of the High Court was challenged before the Apex Court and wherein while referring to earlier judgments in **Rup Diamonds v. Union of India, (1989)2 SCC 356**; **“Jagdish Lal v. State of**

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Haryana, (1997)6 SCC 538 and Government of West Bengal v. Tarun K. Roy, (2004)1 SCC 347, it was opined that persons who approached the Court at a belated stage placing reliance upon the order passed in some other case earlier, can be denied the discretionary relief on the ground of delay and laches. The relevant observations made by the Supreme Court are contained in Paras 5, 6 and 16 of the judgment and are extracted here under:-

*“5. So far as the principal issue is concerned, that has been settled by this court. Therefore, there is no quarrel over the legal proposition. But the only question is grant of relief to such other persons who were not vigilant and did not wake up to challenge their retirement and accepted the same but filed writ petitions after the judgment of this court in **Harwindra Kumar v. Chief Engineer, Karmik, (2005) 13 SCC 300**. Whether they are entitled to same relief or not? Therefore, a serious question that arises for consideration is whether the employees who did not wake up to challenge their retirement and accepted the same, collected their post-retirement benefits, can such persons be given the relief in the light of the subsequent decision delivered by this court?*

6. The question of delay and laches has been examined by this court in a series of decisions and laches and delay has been considered to be an important factor in exercise of the discretionary relief under Article 226 of the Constitution. When a person who is not vigilant of his rights and acquiesces with the situation, can his writ petition be heard after a couple of years on the ground that same relief should be granted to him as was granted to person similarly situated who was vigilant about his rights and challenged his retirement which was said to be made on attaining the age of 58 years. A

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chart has been supplied to us in which it has been pointed out that about 9 writ petitions were filed by the employees of the Nigam before their retirement wherein their retirement was somewhere between 30.6.2005 and 31.7.2005. Two writ petitions were filed wherein no relief of interim order was passed. They were granted interim order. Thereafter a spate of writ petitions followed in which employees who retired in the years 2001, 2002, 2003, 2004 and 2005, woke up to file writ petitions in 2005 and 2006 much after their retirement. Whether such persons should be granted the same relief or not?

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16. Therefore, in case at this belated stage if similar relief is to be given to the persons who have not approached the court that will unnecessarily overburden the Nigam and the Nigam will completely collapse with the liability of payment to these persons in terms of two years' salary and increased benefit of pension and other consequential benefits. Therefore, we are not inclined to grant any relief to the persons who have approached the court after their retirement. Only those persons who have filed the writ petitions when they were in service or who have obtained interim order for their retirement, those persons should be allowed to stand to benefit and not others.” [Emphasis supplied]

*8. The issue of delay was also dealt with by this Court in **Tarsem Pal vs. Punjab State Power Corporation Limited and others, 2013 (3)SLR 314**. In the case of Tarsem Pal(supra), the petitioner was serving as a Clerk with the respondent-Corporation and had retired on 31.03.2005. Claim in the writ petition was to grant to him the benefit of proficiency set up in the pay scale on completion of 23 years of service from the due date as per*

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policy of the Corporation. During the service career, he had not agitated the claim for increments. For the first time, such claim had been made on 28.02.2005 i.e. just one month prior to superannuation. While non-suiting the petitioner on account of delay and laches it was held as follows:-

“11. In the aforesaid judgments, it has been clearly laid down that discretionary relief in a writ jurisdiction is available to a party who is alive of his rights and enforces the same in court within reasonable time. The judgment in another case does not give a cause of action to file a writ petition at a belated stage seeking the same relief. Such petitions can be dismissed on account of delay and laches. As has already been noticed above in the present case as well, the petitioner joined service in the year 1965 and retired in the year 2005, but raised the issue regarding benefit of proficiency step up in the pay scale on completion of 23 years of service from the due date more than five years after his retirement referring to a judgment of this court and filed the petition claiming the same relief.

12. 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 late 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.

13. Considering the enunciation of law,

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as referred to above, in my opinion, the petitioner herein is not entitled to the relief prayed for and the petition deserves to be dismissed merely on account of delay and laches.”

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

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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.**

13. Ordered accordingly.”

16. The Division Bench of this Court in ***“H.S. Gill vs Union of India and others”***, 2016(2) SCT 477, has held that an employee cannot claim the revised pay scale after retirement once he has been receiving the pay scale granted by the employer for the last 09 years. The relevant portion from the said judgment, reads as under:-

“14. The petitioner is also not entitled to any relief on account of principle of delay and laches. He has been receiving the pay in the pay scale of Rs.6500-10500 right from his transfer to CSIO, Chandigarh i.e. 2.7.2002. For the first time, he moved the representation on 29.8.2011, so, he kept mum for about 9 years. Thus, the claim of the petitioner is highly belated and stale.”

17. In present case, the petitioner has retired from service on 30.04.2010 and filed the present petition on 23.09.2024 i.e. after a period of 14 years and have not chosen to claim the benefit of 23 years promotional increment in all those long period before the respondents.

18. The judgments cited by the learned counsel for the petitioners, as mentioned above, are not applicable and clearly distinguishable to the facts in the present case. In Tarsem Singh's case

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(supra), the respondent – Tarsem Singh was disqualified in Army Service in medical category on 13.11.1983. He approached the High Court in 1999 seeking mandamus to the appellants – Union of India to pay him disability pension. A writ petition filed by the respondent was allowed on 06.12.2000 by a learned Single Judge and directed the appellants to grant him disability pension at the rates permissible and the arrears were restricted to 38 months prior to the filing of the writ petition. Aggrieved by the said decision, the respondent filed LPA and the same was allowed by the Division bench of the High Court vide judgment dated 06.12.2006, whereby respondent was held entitled to disability pension from the date it fell due and should not be restricted to a period of 38 months prior to the filing of the writ petition and further awarded interest @ 6% per annum on the arrears. The said judgment was challenged before the Hon'ble Supreme Court. The question arose for consideration before the Hon'ble Supreme Court was as to whether the High Court was justified in directing payment of arrears for a period of 16 years instead of restricting it to three years. The civil appeal was allowed by the Hon'ble Supreme Court wherein it was ruled that the High Court should not have directed the payment of 16 years arrears with interest. The Apex Court held that the High Court should have restricted the relief, indicating that the payment of such a large amount with interest was not justified. The issue involved in the present case is altogether different and has no application to the facts of this case. Equally distinguishable are the judgment of the Division

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Bench of this Court in Balwant Singh’s case (supra) and the Single Bench of this Court in Rattan Chand’s case (supra) and Amar Nath Gujjar’s case (supra).

19. In view of the foregoing discussion and abovesaid authoritative enunciation of law by the Hon’ble Supreme Court and this Court, the aforesaid issue as raised in the present writ petition filed by the petitioner cannot be allowed to be agitated at this belated stage and consequently, the present petition is dismissed on the ground of delay and laches.

(NAMIT KUMAR)
JUDGE

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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No