

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10938 OF 2025

Mayappa Dattu Patade and Ors.	.. Petitioners
Vs.	
The State of Maharashtra Through the Chief Secretary Finance Dept and Ors.	.. Respondents

Mr. Rakesh C. Bramhankar (through V.C.), Advocate for the Petitioners.
Mr. P. P. Kakade, Addl.G.P. a/w Ms Nisha Mehra, AGP, for Respondent
Nos. 1 to 6.

**CORAM : SHREE CHANDRASHEKHAR &
MANJUSHA DESHPANDE, JJ**

DATE : 12TH AUGUST 2025.

Per, SHREE CHANDRASHEKHAR, J :

The petitioners who claim that they were working on the post of Lab Assistant in the colleges affiliated to the Mumbai University, Pune University and Dr. Babasaheb Ambedkar Marathwada University are seeking benefits under 5th Pay Commission recommendations with effect from 1st January 1996.

2. This writ petition has been filed about 30 years after the cause of action arose for claiming the pay scale of Rs.4000-6000/-, if at all they have any right in law. Not only that, the petitioners have not disclosed the nature of their employment as would have been reflected in the order of their appointment. Some of the petitioners were appointed way back on 1st August 1989, 2nd May 1996, 2nd May 1998, 1st June 1999, 1st September 1999 and others on different dates. On the Court's query, Mr. Rakesh C. Bramhankar, the learned counsel for the petitioners admits that many of these writ petitioners have attained the age of superannuation and retired from service. In fact, one of the writ

petitioners passed away on 2nd October 2023 and his wife has come to this Court alongwith 25 other co-employees of her husband who also claim to have been appointed on the post of Lab Assistant.

3. The learned counsel for the petitioners refers to the decisions of this Court in Writ Petition No. 5093 of 2022 titled “*Dr. Prabhakar & Ors. v. The State of Maharashtra & Ors.*” and Writ Petition No.12836 of 2022 titled “*Mr. Shingande Sakharam Kisan & Ors. v. The State of Maharashtra & Ors.*” to submit that the petitioners are entitled for the pay scale of Rs.4000- 6000/- with effect from 1st January 1996. In these cases having regard to a long line of judgments delivered on similar issue, the writ Court granted a similar benefit to the employees. But in this case, there is not even a mention about the date on which these employees had become entitled for pay-scale of Rs.4000-6000/-. In our opinion, a service-linked monetary benefit should be claimed within a reasonable time and cannot be claimed by an employee after attaining the age of superannuation. The aforementioned orders are quite distinguishable and do not help the petitioners to support their claim. An employee who makes a claim that he was entitled for a particular pay-scale is required to approach the Court within a reasonable time. To contend that there was no delay on the part of the petitioners to approach this Court, a justification has been sought to be made on the ground that the petitioners carried this impression that the recommendations of 5th Pay Commission was applicable only to a section of the employees and not to them. They have also pleaded that they could realize the correct legal position only when this Court granted relief to co-employees who approached this Court in Writ Petition Nos. 12836 of 2022 and 5093 of 2022. Quite evidently, the petitioners were fence-sitters and they have indulged in chance litigation which must not be encouraged in a Court of law.

4. The question of delay and laches is considered an important factor for not exercising the jurisdiction under Article 226 of the Constitution of India. When an employee who did not approach the Court within a reasonable time seeking payment of monetary benefits and approaches the Court after a couple of years when a similarly situated employee gets relief from the Court cannot get a similar order unless he establishes that (a) he is entitled for a similar relief (b) he was prevented on account of reasons beyond his control to approach the Court in time and (c) the cause of action is continuing cause of action. A person cannot seek discretionary relief from the writ Court if he was sitting on the fence till somebody else took up the matter to the Court and got relief. In “*Govt. of W. B. v. Tarun K. Roy & Ors.*” (2004) 1 SCC 347, two writ petitions were filed by one set of employees in the year 1976 but the other set of employees approached the High Court in the year 1992. The Hon’ble Supreme Court observed that such employees were not entitled to any relief on the ground of gross delay and laches on their part. In “*Jagdish Lal v. State of Haryana*” (1997) 6 SCC 538, the Hon’ble Supreme Court observed that a person cannot stand to benefit if he was not vigilant or sitting over his rights and woke up only after some decision was rendered by the Court. In “*Jagdish Lal*” the Hon’ble Supreme Court held as under:

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

5. This writ petition is bereft of merits and, accordingly, Writ Petition No. 10938 of 2025 is dismissed.

[MANJUSHA DESHPANDE, J.]

[SHREE CHANDRASHEKHAR, J.]