



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

CWP-1780-2001 (O & M)
Date of decision: 01.09.2025

GURMAIL KAUR

...PETITIONER

V/S

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Arvind Galav, Advocate and
Mr. Dharamjit, Advocate for
Mr. Dinesh Kumar, Advocate
for the petitioner.

Mr. Arun Kumar Singla, AAG, Haryana.

Mr. Vinay Kumar Mahajan, Advocate with
Mr. Sushant Mahajan, Advocate for respondent Nos.2 to 4.

HARPREET SINGH BRAR, J. (ORAL)

1. By way of instant petition, the petitioner has sought issuance of appropriate directions to the respondents to grant annual increments from 1989 onwards and installments of Dearness Allowance accorded to the other employees from time to time with all consequential benefits of arrears along with interest @ 18% per annum.

CONTENTIONS

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was appointed as *Bal Sevika* on 17.08.1971 and she has been serving continuously on the .said post without any break. He further contends that in the year 1989, the petitioner was given regular increments, Dearness Allowance and other allowances as admissible to other employees, however, in the year 1989, the annual increment was given to the petitioner on the pretext that her service



book was not traceable. Learned counsel submits that since the annual increment was not released up to February 1990, the petitioner made a joint representation along with Mrs. Narayan Sharma on 21.02.1990 addressing respondent No.4. Thereafter, in the month of October, 1997, the petitioner submitted another representation and personally met with respondent Nos.3 and 4 for the redressal of her grievance and every time, she was given assurance that the increments and the Dearness Allowance installments along with arrears would be granted and lastly, the petitioner made a representation on 09.12.1999. Learned counsel further submits that in spite of making several attempts, the request of the petitioner remained unheeded with regard to annual increments of the year 1989. Furthermore, the same relief was granted to other similarly situated employees, as such, the act and conduct of the respondents is violative of Article 14 of Constitution of India. Learned counsel submits that the petitioner is legally entitled to draw her annual increments from the year 1989 onwards, being an employee of the regular pay scale. As such, the petitioner was constrained to file instant writ petition.

3. On the other hand, learned counsel for respondent Nos.2 to 4 submitted that the services of the petitioner were engaged as *Bal Sevika* under the project financed by the Ministry of Human Resources Development, Department of Women and Child Development, Government of India. He further submits that the project itself has been discontinued by the Government of India and the service of the petitioner stands retrenched with effect from 31.03.2001. Further, the petitioner has not approached this Court with clean hands as she has concealed the material information with regard to filing of Civil Suit bearing No.698 of 1994, which was instituted on 15.02.1990 before the Senior Sub Judge, Kurukshetra, seeking a suit for declaration with a



consequential relief of mandatory injunction. He further submits that the petitioner has pleaded discrimination and sought allowances as well as pay parity on the principle of equal pay and equal work. Further, the petitioner could have raised the prayer made in the present petition, at the time of the filing of civil suit in view of the provisions contained in Order II Rule 2 of Code of Civil Procedure, 1908 (in short 'CPC'). Furthermore, the cause of action has arisen in favour of the petitioner in the year 1989 and she has only approached this Court in the year 2001, as such, her claim suffers from the delay and laches.

4. In rebuttal, learned counsel for the petitioner submits that the prayer made in the civil suit was with regard to the revision of pay scales, whereas, the present petition has been filed with a prayer for annual increments and Dearness Allowance of the year 1989, as applicable.

OBSERVATION & ANALYSIS

5. I have heard the learned counsel for the parties and perused the record of the case with their able assistance. It is trite law that the delay in approaching this Court under Article 226 of the Constitution of India may be condoned if sufficient cause is indicated or a reasonable explanation is provided for the same. However, the facts of the matter at hand indicate otherwise. Learned counsel petitioner has failed to specify any compelling or extenuating circumstance which prevented her from approaching this Court for such a long time. Reference in this regard may be made to the judgment rendered by a three-Judge Bench of the Hon'ble Supreme Court in ***Chairman/Managing Director, U.P. Power Corporation Limited and Others vs. Ram Gopal (2021) 13 SCC 225***, wherein, the following was held:

“16. Whilst it is true that limitation does not strictly apply to proceedings under Articles 32 or 226 of the Constitution of India, nevertheless, such rights cannot be enforced after an



unreasonable lapse of time. Consideration of unexplained delays and inordinate laches would always be relevant in writ actions, and writ courts naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester. **Fence-sitters cannot be allowed to barge into Courts and cry for their rights at their convenience, and vigilant citizens ought not to be treated alike with mere opportunists.** On multiple occasions, it has been restated that there are implicit limitations of time within which writ remedies can be enforced. In *SS Balu v. State of Kerala*, this Court observed thus:

“17. It is also well settled principle of law that "delay defeats equity". It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment.” (emphasis added)

4. Further, in *Mrinmoy Maity vs. Chhanda Koley and others 2024 AIR SC 2717*, the Hon’ble Supreme Court has categorically observed that the High Courts must factor in the delay, while exercising its discretionary powers under Article 226 of the Constitution of India. It was further opined that undue and unexplained delay may be reason enough to dismiss a petition as indolent litigants ought not to be encouraged by writ Courts.

5. In *State of Uttaranchal v. Shiv Charan Singh Bhandari, (2013) 12 SCC 179*, while considering the issue regarding delay and laches and referring to earlier judgments on the issue, a Two-Judge Bench of the Hon’ble Supreme Court opined that repeated representations made will not keep the issues alive. A stale or a dead issue/dispute cannot be got revived even if such a representation has either been decided by the authority or got decided by getting a direction from the 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 settled that law leans in favour of those who are alert and vigilant.

6. In ***Union of India and others v. M. K. Sarkar, (2010) 2 SCC 59***, the Hon'ble Supreme Court has ruled that when a belated representation in regard to a 'stale' or 'dead' issue/dispute is considered and decided, in compliance with a direction by the court/tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the 'dead' issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a Court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches.

7. Moreover, a Division Bench of this Court in ***Mithan Lal Gupta v. State of Haryana, 2021 SCC OnLine P&H 4546*** has held that in light of Rule 32 of Writ Jurisdiction (Punjab & Haryana) Rules, 1976, the principle enshrined in Order II Rule 2 of CPC shall be applicable *mutatis mutandis* to writ proceedings. Said Rule reads as under:

“32. In all matters for which no provision is made by these rules, the provisions of the Code of Civil Procedure 1908, shall apply mutatis mutandis, in so far as they are not inconsistent with these rules.”

8. In the present case, the petitioner has approached this Court after a considerable lapse of time. Repeated representations will not keep the issues alive and no plausible explanation has been offered by learned counsel for the

petitioner for the delay in filing the present petition. Further, the petitioner had earlier approached filed Civil Suit bearing No.698 of 1994, and any cause of action or claim that was available to her during that round of litigation but was not raised therein is barred under Order II Rule 2 CPC. The petitioner cannot be permitted to institute a fresh petition for the same cause of action by giving a new twist to the factual matrix already canvassed in the earlier proceedings. No cogent reason has been shown as to why such reliefs were not sought previously.

9. In view of the discussion above, this Court does not find it appropriate to invoke its extraordinary writ jurisdiction under Article 226 of the Constitution of India. Accordingly, the present petition stands dismissed. Pending miscellaneous application(s), if any, also stand(s) disposed of.

September 01, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

- | | | |
|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |