



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

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CWP-5731-2025
Date of decision: 22.05.2025

SHER SINGH

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Krishan Singh, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

The prayer made in the present writ petition is for seeking quashing of the action of the respondent department whereby the 2nd ACP was granted to the petitioner by considering his date of appointment as 01.07.1977 instead of 12.08.1976. It is further prayed that the respondents be directed to revise the 2nd ACP of the petitioner by fixing his salary from the date of his regular appointment, i.e., 12.08.1976 instead of 01.07.1977.

2. Learned Counsel appearing on behalf of the petitioner contends that the petitioner was appointed as a Diesel Pump Attendant on a temporary basis for a period of six months from the date of his joining, vide appointment letter dated 06.08.1976. He joined duty on 12.08.1976. In the year 1995, the post of Diesel Pump Attendant was abolished, and the

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incumbents were appointed as Clerks in the Department; however, seniority was not granted to them from the date of their joining as Diesel Pump Attendants. Several aggrieved persons approached this Court by filing various writ petitions seeking fixation of their seniority in accordance with the date of their initial appointment as Diesel Pump Attendants. Those writ petitions were allowed by this Court, directing that the seniority of such persons be fixed from the date of their joining as Diesel Pump Attendants.

3. The petitioner also filed CWP-10669-2002 before this Court, seeking benefit of seniority, regular pay scale, higher standard pay scale, and other consequential benefits pertaining to the period of ad hoc/temporary service rendered by him on the post of Diesel Pump Attendant from the date of his initial appointment. The said writ petition was disposed of with a direction to the respondents to consider the petitioner's claim in light of the judgment passed in CWP-8833-1999, decided on 09.01.2001. Pursuant thereto, the petitioner's seniority was considered from the date of his joining as a Diesel Pump Attendant, i.e., with effect from 06.08.1976, subject to the final approval of the State Government, as reflected in the office order dated 24.09.2002.

4. The Department thereafter issued a consolidated seniority list of Diesel Pump Clerks vide letter dated 30.12.2007, wherein the petitioner's name was recorded at Sr. No. 93, with his date of appointment shown as 12.08.1976. His promotion to the post of Assistant was also reflected as having taken place on 04.10.2004.



5. It is thus contended that since the date of appointment has been recorded as 12.08.1976 and the petitioner has been shown as having been appointed to the post of ‘Clerk’ with effect from the said date, and further promoted on 04.10.2004, the ACP ought to have been determined on the basis of the said date. However, while considering the petitioner’s case for grant of the 2nd ACP, his pay was fixed with effect from 01.04.1977 vide letter dated 16.11.2009.

6. He contends that one Shashi Dharan, who was appointed as a Diesel Pump Attendant alongside the petitioner vide appointment letter dated 06.08.1976, had his salary fixed with effect from 01.09.1996 while granting the 2nd ACP. He submits that even at the time of the petitioner’s further promotion to the post of Statistical Assistant, his date of appointment was shown as 12.08.1976, yet the benefit of the said date was not extended while computing the date of grant of the 2nd ACP. Consequently, the petitioner filed a Civil Suit before the Civil Judge (Junior Division), Ambala, bearing Civil Suit No. 260 of 2012, seeking a declaration that he was entitled to promotion as Superintendent, Haryana Roadways, with effect from 22.06.2010—the date on which his junior, Shri Bihari Lal son of Shri Chand, had been promoted as Superintendent—and for consequential reliefs, including a mandatory injunction directing the defendant to pay arrears and allowances. During the pendency of the said suit, the petitioner was promoted to the post of Superintendent vide order dated 24.01.2013; however, he was granted only notional benefits and not pay and allowances

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for the period during which he did not actually perform the duties. The suit was decreed vide judgment dated 01.02.2016, granting the petitioner notional promotion. The petitioner retired thereafter on 31.12.2012, and the calculation sheet was accordingly prepared.

7. He further submits that the petitioner had filed another Civil Suit for a declaration to the effect that he was entitled to a basic pay of Rs. 20,000/- with effect from 01.07.2012 in the scale of 9300-34800 with a grade pay of 3300, the same being granted to Surinder Kumar, Statistical Assistant, who was junior to the petitioner as a Clerk, instead of the basic pay of Rs. 19,170/-. This suit was also decreed by the Civil Judge (Junior Division), Ambala vide judgment dated 20.02.2019, granting the said benefit. The State's appeal against the aforesaid judgment and decree dated 20.02.2019 was dismissed by the Additional District Judge, Ambala vide judgment and decree dated 05.04.2023. The petitioner thus contends that the respondents' action in computing the date of appointment as 01.07.1977 instead of 12.08.1976 for the purpose of assessing the 2nd ACP is erroneous, and prays that the actual benefits be recalculated and extended to him accordingly.

8. I have learned Counsel appearing on behalf of the petitioner at length and have gone through the documents appended alongwith the present writ petition.

9. The facts which undisputedly emerge from the order dated 16.11.2009 (Annexure P-4), whereby the date of regularization of the



petitioner was taken as 01.04.1977 instead of 12.08.1976, were passed by the respondent-authorities in November 2009. Thereafter, during the period of nearly sixteen years that elapsed, the petitioner preferred two civil suits for different reliefs.

10. It is settled position in law that a litigant should seek all his relief(ies) at the time of institution of proceedings for which a cause of action has already accrued. The failure to do the needful debars a person from raising the said grievance at a latest point in time. The said principle enshrined under Order 2 Rule 2 CPC is recognized as a lawful check against institution of successive suits. Even though CPC is not strictly applicable to writ proceedings but such principles can be adverted to by the writ Court as well. In the present case, the petitioner had already approached the Civil Court thrice during the time span of 16 years and once the remedy before Civil Court itself has become barred, it would not be appropriate for a writ Court to open a side walk to avoid the block. Writ jurisdiction is not to be devised as an exception to law and claim exemption from its application. High Court would ususally not ignore the relevant statutes and procedures governing the rights and the remedies unless there are reasons as would justify the invocation of the writ remedy to meet the ends of justice. No such compelling circumstances are shown to exist for which the period of 16 years may be ignored. A claim filed at a belated stage, especially after nearly sixteen years of the order initially having been passed, does not merit an interference. The instant writ petition is thus filed at a highly belated stage



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and is hence barred by delay & laches and apart from the principles of acquiescence and waiver. The same is accordingly dismissed in *limine*.

(VINOD S. BHARDWAJ)
JUDGE

MAY 22, 2025
Vishal Sharma

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No