



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

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**CWP-8958-2021 (O&M)**  
**Date of decision: 15.09.2025**

Ramesh Chander Manchanda

....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. Narender Pal Bhardwaj, Advocate  
for the petitioner.

Mr. Piyush Bansal, Advocate  
for the respondents.

**HARPREET SINGH BRAR J. (Oral)**

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the impugned non-speaking order/reply dated 09.01.2019 (Annexure P-7) passed by respondent No.1. Further a writ of *mandamus* has been sought, directing the respondents to grant pay and pension parity to the petitioner at par with his junior namely Ish Kumar and Ajit Singh and thereafter, grant interest on the delayed refixation of pay along with all consequential benefits at par with his juniors and accordingly revised the pension of the petitioner after refixation and arrears be also released to him within a time bound period.



2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was recruited as Line Superintendent-II in erstwhile Haryana State Electricity Board (in short 'the Board') by way of direct recruitment on 12.03.1968. Thereafter, the petitioner earned promotions and retired on 31.05.2005. The petitioner is claiming pay parity with his junior Ish Kumar, who joined the erstwhile Board on 31.01.1969. Learned counsel for the petitioner further submits that Reorganization and Restructuring Scheme at the time of creation of power utilities has made a provision for protection of seniority and pay and other service rights of the employees as notified by Haryana Government Power Department Notification of 01.07.1999. At the time of retirement of the petitioner in the year 2005, when his pension payment order was prepared, he was drawing less salary than his junior Ish Kumar and consequentially, his pay was also fixed at a lower scale. The petitioner came to know that Ish Kumar had approached this Court and the matter went upto the Hon'ble Supreme Court. The Special Leave Petition filed by respondent/Corporation was dismissed on 10.07.2013, however, the respondent/Corporation has assigned the seniority of Ish Kumar and consequential benefits were given to him only in the year 2016. The petitioner, after gaining knowledge with regard to re-fixation of pay of his junior Ish Kumar submitted a representation on 28.12.2018 (Annexure P-6) to rectify the anomaly and calculate his pay and pensionary benefits at par with his junior Ish Kumar. Learned counsel for the petitioner further submits that the limitation or the cause of



action to approach this Court would be determined from the date of gaining knowledge regarding refixation of the pay and other financial benefits of Ish Kumar. There is no denial to the fact that the financial benefits of Ish Kumar were released only in the year 2016 pursuant to the order passed by the Hon'ble Supreme Court. In support of the arguments, learned counsel for the petitioner has relied upon the Division Bench judgment of this Court in ***Mohinder Singh and another vs Union of India and other, 2014(3) SCT 326.***

3. *Per contra*, learned counsel for the respondents submits that the case of the petitioner is hit by delay and laches. The petitioner remained indolent and is a fence sitter whereas Ish Kumar has diligently filed CWP No.9270 of 1994, which was disposed of on 05.07.2010 and LPA No.1806 of 2011 was filed by respondent/Corporation and the Special Leave Petition were also dismissed. The Hon'ble Supreme Court rejected the Special Leave Petition on 10.07.2013. As such, the petitioner cannot revalidate his claim which is admittedly barred by delay and laches, by filing representation in the year 2018.

4. I have heard learned counsel for the parties and perused the record with their able assistance.

5. Having heard learned counsel for the parties and after perusal of the record, it transpires that the petitioner has approached this Court after an inordinate and unexplained delay. The cause of action, if any, arose to the petitioner long ago particularly when his junior Ish Kumar had initiated legal proceedings in the year 1994, which



culminated in dismissal of the Special Leave Petition by the Hon'ble Supreme Court on 10.07.2013. Despite being aware of these facts or having reasonable means to acquire such knowledge, the petitioner remained silent and did not assert his rights in a timely manner. His belated representation dated 28.12.2018, does not revive a stale claim, nor does it constitute a fresh cause of action. The petitioner, by his own conduct, has acted as a fence sitter and sought to claim parity only after his junior succeeded in litigation, which he chose not to contest at the relevant time. Therefore, this Court finds no ground to entertain the present writ petition at such a belated stage.

6. Further 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 him 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 ***S.S. 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)*

7. Moreover, 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.



8. Further 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.

9. 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.

10. Moreover, with regards to issues regarding fixation of pay, the position of law has been settled by a two-Judge Bench Hon'ble Supreme Court in *M.R. Gupta v. Union of India, (1995) 5 SCC 628* and has been reaffirmed by a full bench decision of this Court in *Saroj Kumari v. State of Punjab, 1998(3) SCT 664*. Accordingly, so long as an employee **is in service**, a petition claiming refixation of pay is not barred by limitation or the doctrine of laches, as the denial of benefit occurs every month when the salary is paid, thereby giving rise to a fresh cause of action, based on continuing wrong. Such a case is not a case of one time action like the case of termination or dismissal from service. However, payment of arrears can be restricted to a reasonable period. Three years and two months has been considered to be a reasonable period as that is the period for which a person can ask for the payment of arrears before a Civil Court. However, once an employee **ceases to be in service**, the wrong fixation of pay can no longer be treated as a continuing wrong. Consequently, a petition seeking such fixation, if instituted after cessation of service and with substantial delay, is liable to be dismissed on the ground of delay and laches. Reliance can be placed on the judgement of the co-ordinate bench of this Court in *Prem Nath v. State of Punjab, 2018(2) SCT 687*, wherein the petitioners approached this Court seeking correct fixation of pay



much subsequent to their superannuation. While dismissing the petition on the ground of delay and laches, the Court held as follows:

*“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 v. Union of India and others, 1996(1) S.C.T 8 : 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.**” (emphasis supplied)*

11. 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.

12. 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.

**(HARPREET SINGH BRAR)**  
**JUDGE**

**15.09.2025**  
*yakub*

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