



111

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

**CWP-13233-2025 (O&M)
Date of decision: 10.09.2025**

Amir Chand

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sunny Singla, Advocate
for the petitioner.

HARPREET SINGH BRAR, J.

1. Present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* seeking quashing of the order dated 30.11.2023 (Annexure P-19) and the order dated 12.05.2005 (Annexure P-13), vide which claim of the petitioner for grant of the pay scale of Junior Technician Grade-I in the pay scale of Rs.1410-2460 by considering his seniority at Sr. No.68 and further to issue a writ in the nature of *mandamus* directing the respondents to implement the recommendations of 3rd Pay Commission under Chapter 26, as approved by Punjab Government vide Annexures P-2 & P-3 and also in view of the



instructions dated 16.09.2002 (Annexure P-9) issued by respondent No.1, by declaring/designating the posts of Tubewell Drivers/Electrical Pump Driver, Mechanics, Electricians, Carpenters, Welders and Helpers etc. as skilled/semi-skilled posts and grant him the aforementioned pay scale along with all the consequential benefits.

2. Learned counsel for the petitioner contends that the petitioner was appointed as Peon in the respondent-Corporation on 01.12.1961 and was promoted to the posts of Oilman (called as Assistant Tubewell Driver) and Tubewell Driver w.e.f. 06.05.1963 and 09.05.1974 respectively and he retired from service on 31.10.2001 on attaining the age of superannuation. Further, the Punjab Government, on the basis of 3rd Pay Commission, framed the Punjab Civil Services (Revised Pay) Rules, 1988 (for short 'the Rules'), which were made applicable w.e.f. 01.01.1986 and vide letter dated 26.10.1988, all the Heads of Departments were directed to implement the said recommendations in favour of skilled and semi-skilled employees under Chapter 26. Thereafter, Chief Engineer/KAD, Irrigation Works, Punjab issued a letter dated 16.10.1995 (Annexure P-4) to all the Directors, Irrigation Works to implement Chapter 26. When the aforesaid recommendations were not implemented, some of the semi-skilled/skilled persons approached this Court by filing CWP-878-1997 titled as 'Gurbax Singh and others Vs. State of Punjab and others', which was disposed of vide order dated 23.09.1997 (Annexure P-5) by issuing a direction to respondent No.1 to accord approval as per the Rules and pursuant thereto,



respondent No.1 issued a letter dated 24.12.1997 (Annexure P-6) to the Commissioner, Municipal Corporation, Amritsar to comply with the said directions. Feeling aggrieved by non-implementation of the recommendations, another set of semi-skilled/skilled employees working in Municipal Corporation, Jalandhar approached this Court by way of filing CWP-5177-1999 titled as 'Sat Pal and others Vs. State of Punjab and others' and the same was also disposed of on 27.11.2000 (Annexure P-7) with a direction to accord sanction for the proposal of the said Corporation in order to fulfill the genuine demand of the technical staff.

3. Further, on 16.09.2002, Government of Punjab, Department of Local Government, issued a circular letter (Annexure P-9) to all the Municipal Corporations/Councils etc. in the State of Punjab to implement the recommendations of 3rd Pay Commission regarding skilled and semi-skilled staff uniformly. Thereafter, respondent No.3-Corporation passed a resolution No.19, which was approved by learned Mayor on 01.03.2003. It is further contended that in spite of submission of various representations (Annexure P-11) to the respondent authorities, when no action was taken, the petitioner and other employees filed **CWP-19883-2003** titled as '**Amir Chand and others Vs. State of Punjab**' to designate them as Technician Grade-I and grant the pay scale of Rs.1410-2460 w.e.f. 01.01.1986. The said petition was disposed of vide order dated 18.12.2003 (Annexure P-12) and in compliance thereof, the respondent-Corporation passed the impugned order dated 12.05.2004



(Annexure P-13) rejecting the claim of the petitioner.

4. Learned counsel for the petitioner further contends that the petitioner made several representations for correction of seniority list and grant of aforesaid pay scale, as discernible from Annexures P-14 & P-15. The petitioner also served a legal notice dated 13.02.2023 (Annexure P-17) upon the respondents in this regard and while the same was not considered, he again approached this Court by filing CWP-10582-2023 and the same was disposed of vide order dated 16.05.2023 (Annexure P-18) with a direction to the respondents to decide the legal notice (Annexure P-17), however, pursuant to the said order, claim of the petitioner was again rejected vide order dated 30.11.2023 (Annexure P-19) and even COCP-2612-2023 filed by the petitioner was dismissed as withdrawn on 08.08.2024 (Annexure P-20). It is further contended that similarly situated employees filed a writ petition i.e. CWP-24513-2017 before this Court, which was disposed of vide order dated 30.05.2022 (Annexure P-16) and in compliance thereof, their salary had been fixed w.e.f. 01.04.1986 as per the recommendations contained in Chapter 26. Learned counsel for the petitioner further relies upon a judgment passed by the Full Bench of this Court in ***Saroj Kumari Vs. State of Punjab, 1988 (3) PLR 123***, wherein the petitioners were allowed the arrears for 38 months.

5. Having heard learned counsel for the petitioner and after perusing the record of the case with his able assistance, this Court finds no force in the arguments advanced on behalf of the petitioner.



6. From perusal of the record, it transpires that claim of the petitioner was rejected in the year 2004, as discernible from the impugned order dated 12.05.2004 (Annexure P-13). Thereafter, the petitioner submitted various representations and served legal notice upon the respondents. The dead claim of the petitioner cannot be re-validated by filing repeated representations/petitions. As such, case of the petitioner suffers from delay and laches.

7. 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 for the 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 *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)

8. 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 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 reasoned enough to dismiss a petition as indolent litigants ought not to be encouraged by writ Courts.

9. In *State of Uttaranchal Vs. 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 issue(s) 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.

10. In *Union of India and others Vs. 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 of the direction issued by the Court. 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.

11. Moreover, with regards to issues regarding fixation of pay, the position of law has been settled by a two-Judge Bench of the Hon'ble Supreme Court in *M.R. Gupta Vs. Union of India, (1995) 5 SCC 628* and has been reaffirmed by a Full Bench of this Court in *Saroj Kumari Vs. State of Punjab, 1998(3) SCT 664*. Accordingly, so long as an employee *is in service*, a petition claiming re-fixation 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 judgment of the Co-ordinate Bench of this Court in ***Prem Nath Vs. 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)

12. The petitioner, in the present case, 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.

13. 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 is dismissed.

14. All the pending miscellaneous application(s), if any, shall stand disposed of.

**[HARPREET SINGH BRAR]
JUDGE**

10.09.2025
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No