

2025:PHHC:132021



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

**CWP-19936-2025(O&M)  
Date of Decision:17.09.2025**

Avtar Singh

...Petitioner

vs.

State of Punjab and another

...Respondents

**Coram : Hon'ble Mr. Justice N.S.Shekhawat**

Present : Mr. Inderjit Kaushal, Advocate  
for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

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**N.S.Shekhawat J. (Oral)**

1. The petitioner has filed the present petition under Article 226 of the Constitution of India with a prayer to issue a writ in the nature of certiorari for quashing the impugned order dated 03.04.2003 (Annexure P-3), whereby the petitioner has been dismissed from service, on his conviction in a criminal case. A further prayer has been made to direct the respondents to reinstate the petitioner and to pass an order to retire the petitioner w.e.f. 31.05.2016 and to pay full salary till 31.05.2016 and thereafter, the pension and other related benefits along with interest.

2. Learned counsel for the petitioner contends that the petitioner was appointed as a Peon in the respondents-department on 24.04.1979 and had joined the department on 02.05.1979. Thereafter, the petitioner continuously

served the respondents-department for a period of 24 years. However, the petitioner was falsely involved in a case FIR No. 119/1999 under Section 302 IPC and was placed under suspension on 11.08.2000. Finally, vide judgment dated 31.01.2003 (Annexure P-2), the petitioner was convicted by the Court of Additional Sessions Judge, Chandigarh. Immediately after the conviction, the petitioner was dismissed from service on 03.04.2003 under Rule 13(1) of Punjab Civil Services (Punishment and Appeal Rules), 1970, with immediate effect. He further contends that the petitioner was illegally dismissed by the respondents by completely overlooking the mandate of the Constitution, as enshrined in Article 311(2)(a) of the Constitution of India. Even there was no direct evidence against the present petitioner and the conviction was based only on circumstantial evidence, which is inherently weak in nature. Apart from that, the penalty imposed on the present petitioner was grossly excessive and disproportionate. Consequently, the impugned order was illegal and liable to be quashed by this Court.

3. Learned counsel further contends that the petitioner had served the department for 24 years and keeping in view the services rendered by him in the respondent-department, he was entitled to provisional pension as per law. He further submitted that the impugned order dated 03.04.2003 (Annexure P-3) has been passed by the respondents without granting an opportunity of hearing to the petitioner and is in violation of the principles of natural justice. Thus, the impugned order is legally unsustainable.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by the petitioner on the ground that the claim of the petitioner is liable to be rejected on account of delay and laches. It is submitted

that the petitioner was appointed as a peon in the respondent-department on 24.04.1979. In the year 1999, an FIR was registered against him and after conclusion of the criminal trial, he was convicted. Consequently, he was dismissed from service on 03.04.2003 in accordance with the applicable service regulations. The petitioner chose not to make any representation/legal notice for almost 22 years and a legal notice in this regard was submitted only on 26.05.2025. Thus, the relief claimed by the petitioner in the present writ petition is barred by delay and laches.

5. I have heard the learned counsel for the parties and perused the case file minutely.

6. The issue regarding dismissal of a petition on the ground of delay and laches, where there is no explanation of delay, came up for consideration before Hon'ble the Supreme Court in the matter of **Mrinmoy Maity Vs. Chhanda Koley and others, 2024 SCC Online SC 551** and Hon'ble the Supreme Court has held that a person who sleeps over his rights for considerable period, he should not be granted the extraordinary relief by the writ courts. Hon'ble the Supreme Court in the said matter has held as follows:-

*“9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and laches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article*

*226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.*

*10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straight jacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.*

*11. For filling of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to*

*necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court.”*

7 Still further, a co-ordinate Bench of this Court in **CWP No.5965 of 2011 tilted as ‘Sandeep Kharab Vs. State of Haryana and others** has also held that the writ jurisdiction cannot be invoked at the will and convenience of the litigant. Anyone who claims rights must be vigilant and he must enforce his rights within reasonable time.

8 Applying the above observations, this Court is of the considered view that the respondent was justified in rejecting the claim being hopelessly time barred and thus, it can be safely held that relief claimed by the petitioner in the present writ petition is barred by delay and laches.

9 In view of the facts and circumstances of the case noted above as well as the observations made by Hon’ble the Supreme Court in the matter of **Mrinmoy Maith** (supra), the present petition stands dismissed, being the same badly hit by doctrine of delay and laches. Pending application(s), if any, shall also stands disposed off, accordingly.

**17.09.2025**  
hemlata/mks

**(N.S.SHEKHAWAT)**  
**JUDGE**

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