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

**CWP-23087-2025 (O&M)
Date of decision: 25.09.2025**

Darshan Singh

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

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

Mr. Vikas Sonak, AAG, Punjab.

Mr. Harinder Pal Singh Ishar, Advocate
for respondents No.3 & 4.

HARPREET SINGH BRAR, J. (ORAL)

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 circular letters dated 19.07.2019 (Annexure P-11), dated 21.10.2019 (Annexure P-12) and the speaking order dated 31.01.2025 (Annexure P-5), vide which claim of the petitioner stands rejected and further to issue a writ in the nature of *mandamus* directing the respondents to step up his pay at par with his junior employee-respondent No.5 Jarnail Singh, who



belongs to Scheduled Caste category and also to pay all arrears of pay and consequential benefits along with interest @12% per annum.

FACTUAL BACKGROUND

2. Brief facts of the case are that the petitioner joined the respondent-Corporation as Skilled Worker on 19.06.1978 and proforma respondent No.5 Jarnail Singh joined on the same post on 02.01.1984. The petitioner was promoted on the posts of Junior Plant Attendant, Auxiliary Plant Attendant (for short 'APA') and Desk Controller on 21.02.1989, 10.10.2003 & 22.03.2010 respectively. Said Jarnail Singh, who belongs to Scheduled Caste category, was also promoted to the posts of Junior Plant Attendant, Auxiliary Plant Attendant and Desk Controller on 06.12.1991, 05.04.2000 & 16.03.2010 respectively. At the time of promotion of the petitioner to the post of Auxiliary Plant Attendant on 10.10.2003, his pay was fixed as Rs.6500/- and on being promoted to the said post of APA on 05.04.2000, pay of proforma respondent No.5 Jarnail Singh was fixed as Rs.7000/-. On further promotion as Desk Controller, pay of the petitioner and proforma respondent No.5 Jarnail Singh was fixed as Rs.20400/- and Rs.21720/- respectively. Consequently, the petitioner retired from service on 30.04.2012. He claims that his pay may be fixed at par with his junior employee i.e. proforma respondent No.5 Jarnail Singh.

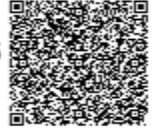
3. Learned counsel for the petitioner, *inter alia*, contends that



grievance of the petitioner is with regard to not granting benefit of stepping up of his pay despite seniority based on catch-up rule. He refers to the letter dated 14.03.2017 (Annexure P-8), wherein the decision to step up of pay of general category senior employees equal to the junior employee of reserved category was taken. Learned counsel for the petitioner submits that rejection of claim of the petitioner on the ground of limitation is unjustified, as the respondent-Corporation failed to communicate and notify the decision taken, to the employees, who were likely to be benefited.

4. *Per contra*, learned counsel for contesting respondents No.3 & 4 submits that the petitioner has not approached this Court with clean hands. Admittedly, the petitioner retired on 30.04.2012. His entire claim is based upon promotion, which is crystallized from the fact that when his junior employee i.e. proforma respondent No.5 Jarnail Singh was promoted as Desk Controller on 16.03.2010, his pay was fixed as Rs.21720/- and he started drawing the pay higher than the petitioner. It is further submitted that the petitioner remained quiet for several years and he earlier filed a writ petition i.e. CWP-3456-2021, which was dismissed as withdrawn on 23.01.2024 and this fact is not mentioned in the present petition. As such, claim of the petitioner cannot be considered at this stage, which is barred by the principle of delay and laches.

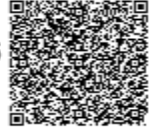
OBSERVATION and ANALYSIS



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

6. As conceded by learned counsel for the petitioner that claim of the petitioner arose in the year 2010, however, he could not provide any satisfactory reason to justify the delay in approaching this Court. 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, 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/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



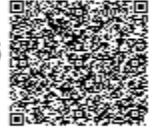
*has been restated that there are implicit limitations of time within which writ remedies can be enforced. In **SS Balu v. State of Kerala**, this Court observed thus:*

“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)

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

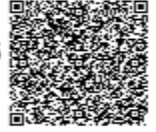
8. In **State of Uttaranchal Vs. Shiv Charan Singh Bhandari, (2013) 12 SCC 179**, while considering the issue regarding delay and laches and referring to earlier judgments on the issue, a two-Judge Bench of the Hon’ble Supreme Court opined that repeated representations made will not keep the issues alive. 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.

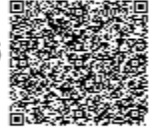
9. In *Union of India and others Vs. M. K. Sarkar, (2010) 2 SCC 59*, the Hon'ble Supreme Court has ruled that when a belated representation in regard to a 'stale' or 'dead' issue/dispute is considered and decided, in compliance with a direction by the Court/Tribunal to do so, the date of such decision 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 with a Court's direction. Neither direction of a Court to consider the 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 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 decision 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 judgement 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)

11. The present petitioner has approached this Court after a considerable lapse of time. Repeated representations will not keep the issue(s) 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 above discussion, 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

25.09.2025
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No