



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

114

**CWP-25929-2025 (O&M)
Date of decision: 02.09.2025**

Omvati

....Petitioner

Versus

Managing Director, Uttar Haryana Bijli Vitran Nigam Limited and
others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Thakan, Advocate
for the petitioner.

Mr. Sukhdeep Singh Parmar, Advocate
for the respondents.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Article 226 of the Constitution of India, is for issuance of a writ in the nature of mandamus, directing the respondents to refix the pension of the petitioner by granting the husband of the petitioner annual increment in his last year of retirement as he, in his last retiring year and before his retirement, has completed requisite one year of service as required by the Revised Pay Rules, 2008 dated 30.12.2008 (Annexure P-1), for grant of annual increment with all consequential benefits of arrears, etc., along with interest.

CONTENTIONS

2. Learned counsel for the petitioner submits that the petitioner's husband has put in more than 20 years of service and in



terms of Rule 10 of Haryana Civil Services (Revised Pay) Rules, 2008 (in short 'H.C.S. (Revised Pay) Rules, 2008') the deceased husband of the petitioner was entitled for annual increments on completion of service of one year as discernible from the Notification dated 30.12.2008 (Annexure P-1), however, the annual increments of the deceased husband of the petitioner has not been granted. The husband of the petitioner prior to his death had made several representations, however, all these representations remained unheeded. The petitioner has served a legal notice on 01.04.2025, upon the respondents claiming relief in terms of Rule 10 of H.C.S. (Revised Pay) Rules, 2008 and the State being the model employer should have extended the benefit in terms of the applicable Rules and the case of the petitioner is squarely covered by the judgment of Hon'ble Supreme Court in ***S.K. Mastan Bee vs The General Manager, South Central Railway, 2003(1) SCC 184*** and ***Umesh Kumar Nagpal vs State of Haryana, 1994(3) SCT 174***.

3. Notice of motion.

4. Mr. Sukhdeep Singh Parmar, Advocate, on advance notice, has put in appearance on behalf of the respondents/Corporation and submits that the husband of the petitioner had retired on 31.07.2008, on attaining the age of superannuation and he unfortunately expired on 19.07.2009. The petitioner is getting family pension on account of the death of her husband. The claim of the petitioner for refixation of pension of her deceased husband cannot be considered after 17 years as the claim made by the petitioner suffers from delay and laches and



merely by filing representations, the claim of the petitioner cannot be revived again.

OBSERVATION & ANALYSIS

5. I have heard learned counsel for the parties and perused the record with their able assistance. The claim of the petitioner admittedly arose in the year 2009. However, the learned counsel for the petitioner has failed to offer any plausible or satisfactory explanation for the inordinate delay of more than 17 years in approaching this Court. In the absence of any justification for such delay, the writ petition is liable to be dismissed on the ground of delay and laches alone.

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

10. Indubitably, 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 from the date of her husband's retirement. Repeated representations made 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

02.09.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No