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

**CWP-24579-2025 (O&M)
Date of decision: 25.08.2025**

Ram Kishan Yadav

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.K. Sharma, Advocate and
Mr. Rajat Sharma, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Present civil writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing of communications dated 06.12.2024 (Annexure P-1) and 16.12.2024 (Annexure P-2), vide which claim of the petitioner has been rejected and further to issue a writ in the nature of *mandamus* directing the respondents to fix his pay at par with his junior w.e.f. the date of his promotion i.e. 22.10.1981 and also to count his past service rendered in Education Department from 02.09.1970 to 01.03.1971 for the purpose of pension.



2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner joined the respondent-Nigam as Upper Division Clerk on 05.04.1971 and he was promoted to the posts of Revenue Accountant on 22.10.1981 and Section Officer in the year 2002 and on attaining the age of superannuation, he retired in the year 2003. Further, when the retiral benefits were not released by the respondent-Nigam, the petitioner filed a civil suit, which was decreed vide judgment and decree dated 03.04.2012 holding him entitled to the benefits of 1st and 2nd ACP w.e.f. 22.10.1991 and 22.10.2001. However, the petitioner did not press for the claim qua counting of past service, as no documentary evidence was available and the relief of pay parity sought to be granted in the present petition was also not raised at that time. Against the aforesaid judgment and decree dated 03.04.2012, the respondent-Nigam filed an appeal, which was dismissed and SAO filed against by the respondent-Nigam was also dismissed as withdrawn. Thereafter, the petitioner filed an execution application, which was dismissed and against the same, he preferred a civil revision petition before this Court and the same was allowed vide order dated 16.07.2025.

3. Further, the petitioner also filed a CWP-18253-2022 before this Court, which was disposed of with a direction to the respondents to decide the representation of the petitioner and in compliance thereof, the respondent-Nigam passed an order on 27.10.2022 rejecting the claim of the petitioner on the ground that his pension was properly fixed. Feeling aggrieved, the



petitioner served a legal notice dated 14.10.2024 upon the respondents, which was replied by misinterpreting his promotion date, as discernible from communication dated 06.12.2024 (Annexure P-1). The petitioner again approached the respondent-Nigam by way of serving legal notice to count his past service rendered in the Education Department from 02.09.1970 to 01.03.1971 and vide letter dated 16.12.2024 (Annexure P-2), the respondent-Nigam rejected his claim on the ground that said relief cannot be entertained at this belated stage. It is further submitted that the petitioner is seeking the relief qua counting of his past service, as now he has got a document (Annexure P-4), showing that he worked as Social Study Teacher in Government Senior Secondary School, Beri, District Rohtak from 02.09.1970 to 01.03.1971.

4. Notice of motion.

5. Mr. R.S. Budhwar, Addl. AG, Haryana, who is present in the Court, accepts notice on behalf of respondent No.1-State and Mr. Prince Singh, Advocate accepts notice on behalf of respondents No.2 to 4-UHBVN.

6. Learned counsel for respondents No.2 to 4 submits that claim of the petitioner cannot be considered at this stage, as admittedly, he was superannuated on 31.12.2003. Thereafter, the petitioner filed a civil suit claiming the benefit of Assured Career Progression on account of pass service rendered by him in Education Department from 02.09.1970 to 01.03.1971. Further, the petitioner, while filing the civil suit in the year 2007, did not raise



the plea of parity of pay with his junior. As such, case of the petitioner would be barred under Order II Rule 2 of the Code of Civil Procedure, 1908 (for short 'CPC') and the present petition deserves to be dismissed, as it suffers from delay and laches.

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

8. The petitioner did not include the claim(s) sought in the present petition, at the time of filing of civil suit. For a ready reference, Order II Rule 2 of CPC is reproduced as under: -

“2. Suit to include the whole claim.—(1) Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish and portion of his claim in order to bring the suit within the jurisdiction of any Court.

(2) Relinquishment of part of claim.—Where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

(3) Omission to sue for one of several reliefs.—A person entitled to more than one relief in respect of the same cause of action may sue for all or any of such reliefs; but if he omits, except with the leave of the Court, to sue for all such reliefs, he shall not afterwards sue for any relief so omitted.

9. As such, no relief, as prayed for, can be granted in view of the judgment passed by the Division Bench of this Court in ***Mithan Lal Gupta***



Vs. State of Haryana, 2021 SCC OnLine P&H 4546, wherein it has held that in light of Rule 32 of Writ Jurisdiction (Punjab & Haryana) Rules, 1976, the principle enshrined in Order II Rule 2 of CPC shall be applicable *mutatis mutandis* to writ proceedings. Rule 32 (*supra*) reads as under:

“32. In all matters for which no provision is made by these rules, the provisions of the Code of Civil Procedure 1908, shall apply mutatis mutandis, in so far as they are not inconsistent with these rules.”

10. From perusal of the record, it transpires that the petitioner served the Education Department i.e. Government Senior Secondary School, Beri, District Rohtak from 02.09.1970 to 01.03.1971 on *ad hoc* basis and he was not a regular employee, as such, the said relief cannot be granted to him. So far as the claim of the petitioner regarding fixation of his pay at par with his junior Pala Ram is concerned, said Pala Ram joined the respondent-Nigam much prior to him and retired two and half years later and as such, length of service of both the employees is different. Further, the petitioner could not give any satisfactory and sufficient reason to justify the delay in approaching this Court at this belated stage. As such, case of the petitioner suffers from delay and laches.

11. 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



petitioners has failed to specify any compelling or extenuating circumstance, which prevented them 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)

12. 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. Reliance can also be placed on the judgment rendered by a Division Bench of this Court in ***Kartar Singh Vs. Managing Director, HVPNL and others, CWP No.26962 of 2015***, decided on 04.04.2018 as well as the judgment passed by a Co-ordinate Bench of this Court in ***Jai Narain Rohilla Vs. Uttar Haryana Bijli Vitran Nigam Ltd.***, in ***CWP-1167 of 2025*** decided on 17.01.2025.

13. In view of the discussion above, this Court does not find any merit in the present petition to exercise the extraordinary powers under Article 226 of the Constitution of India. Accordingly, the present petition stands dismissed.

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

25.08.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No