



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

CWP-25159-2025
Date of decision: 28.08.2025

Surender Singh

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajat Mor, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Additional A.G., Haryana
for respondents No.2 & 3.

HARPREET SINGH BRAR, J. (ORAL)

1. The 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* for quashing the action of the respondents in not granting the benefit of revised pay scale Rs.1200-2040/- w.e.f. 01.05.1990 and all other consequential benefits arising therefrom.

CONTENTIONS

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was appointed as a Tube-well Driver in the year 1979 and was placed in the pay scale of Rs.950-1400/- w.e.f. 01.05.1990 as per memo dated 27.08.1991 (Annexure P-2). Further, the State Government vide memo dated 26.07.1991 (Annexure P-1) approved the revised pay scale of Rs.1200-2040/- for employees working on technical posts, including Tube-well Operators. Thereafter, when the benefit of technical pay scale was denied to a certain set of employees who were working on technical posts but were not possessing Matric/ITI qualification, a bunch of writ petitions were filed before this Court



with the lead case being **CWP No.18754 of 1991** titled as '*Gurdev Singh and another Vs.State of Haryana and others.*' This Court allowed the writ petitions and vide common order dated 18.01.2010 (Annexure P-3), the respondents in that case were directed to release the revised pay scale of Rs.1200-2040 to all the petitioners who were working on technical post from the date of provision, i.e., 01.05.1990.

3. Subsequently, on 09.08.2010, a letter was issued by the Finance Department to all the Heads of Departments in Haryana with regard to revision of pay scale of technical post (Annexure P-4). The State Government challenged the order passed in ***Gurdev Singh's case (supra)*** by way of filing SLP No. CC 2864/2011 which was dismissed on 21.02.2011. The petitioner made several representations to the respondent-Board for the grant of pay scale of Rs.1200-2040 while relying upon various judgments passed by this Court but the grievance raised by the petitioner was not redressed.

4. On 13.02.2012, this Court allowed a bunch of writ petitions and directed the respondents to grant the arrears of pay to the petitioners therein. In furtherance of the order passed by this Court on 31.12.2012, the Finance Department issued general instructions and made these instructions applicable to all employees even if they had not filed any writ petition as discernible from Annexure P-8. The petitioner had also sought information from the Public Health Department Jind under the Right to Information Act, 2005 as to whether the benefit of the revised pay scale has been given to all the Tubewell Driver/Operator/Water Pump Operators who do not possess the qualification of Matric/ITI. The department vide letter dated 15.05.2013 (Annexure P-12) confirmed that the benefit of the revised pay scale has been given to all tubewell drivers/operators/water pump operators and the said benefit has also



been granted to those employees who were non matric/ITI. Since the grievance of the petitioner was not addressed by the respondents, the petitioner filed **CWP No.22418 of 2013**. However, the petitioner sought permission of this Court to withdraw the petition in view of the enforcement of Haryana (Abolition of Distinction of Pay Scales) Act, 2014 and also to avail other remedies in accordance with law.

5. Learned counsel for the petitioner places reliance on the judgment passed by the Division Bench of this Court in CWP No.11710 of 2014 titled as '*Sarbans Singh and others Vs. State of Haryana*' decided on 25.03.2025 (Annexure P-15) and submits that he is also entitled to the relief in terms of *Sarbans Singh case (supra)*, and therefore, the respondents cannot deny the benefit of technical pay scale to the petitioner. He further relied upon the judgment passed by this Court in CWP No.20952 of 2023 titled as '*Salil Narang and others Vs. Haryana State Industrial and Infrastructure Development Corporation Ltd and others*' and submits that once a controversy is settled by a Court with regards to certain employees, then as per the Haryana State Litigation Policy, 2025 (Annexure P-17), the similarly situated counterparts cannot be denied the same relief and they should not be forced to approach this Court.

6. Mr. Vikrant Pamboo, Additional A.G., Haryana puts in appearance and submits on behalf of the respondents that the claim of the petitioner cannot be considered after an inordinate delay. It was contended that the petitioner is a fence sitter who retired after attaining the age of superannuation on 29.09.2018 and had earlier filed CWP No.22418 of 2013, which was subsequently withdrawn. The other aggrieved persons had filed their respective writ petitions in the year 2014. The reliance of the petitioner on the



judgment rendered by the Division Bench of this Court in *Sarbans Singh's case (supra)*, is totally misplaced as those employees were diligent enough to challenge the Haryana (Abolition of Distinction of Pay Scales) Act, 2014, itself, whereas, the petitioner kept quiet for 11 years and has now approached this Court seeking reliance upon *Sarbans Singh's case (supra)*. He further submits that the *Salil Narang's case (supra)* would not be applicable in the case of the petitioner as the aforementioned order was passed on the concession granted by learned counsel for the respondents to the extent that the respondents would not be averse to reconsider the matter. Further, the aforementioned case was not barred by constructive *Res Judicata*.

OBSERVATION and ANALYSIS

7. I have heard the learned counsel for the parties and gone through the case file with their able assistance. 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 supplied)*

8. 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 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. In *M.R. Gupta (supra)*, the Hon'ble Supreme Court speaking through Justice. J.S verma made the following observation

“5. Having heard both sides, we are satisfied that the Tribunal has missed the real point and overlooked the crux of the matter. The appellant's grievance that his pay fixation was not in accordance with the rules, was the assertion of a continuing wrong against him which gave rise to a recurring cause of action each time he was paid a salary which was not computed in accordance with the rules. So long as the appellant is in service, a fresh cause of action arises every month when he is paid his monthly salary on the basis of a wrong computation made contrary to rules. It is no doubt true that if the appellant's claim is found correct on merits, he would be entitled to be paid according to the properly fixed pay scale in the future and the question of limitation would arise for recovery of the arrears for the past period. In other words, the appellant's claim, if any, for recovery of arrears calculated on the basis of difference in the pay which has become time barred would not be recoverable, but he would be entitled to proper fixation of his pay in accordance with rules and to cessation of a continuing wrong if on merits his claim is justified. Similarly, any other consequential relief claimed



by him, such as, promotion etc. would also be subject to the defence of laches etc to disentitle him to those reliefs. The pay fixation can be made only on the basis of the situation existing on 1.8.1978 without taking into account any other consequential relief which may be barred by his laches and the bar of limitation. It is to this limited extent of proper pay fixation the application cannot be treated as time barred since it is based on a recurring cause of action.

6. The Tribunal misdirected itself when it treated the appellant's claim as 'one time action' meaning thereby that it was not a continuing wrong based on a recurring cause of action. The claim to be paid the correct salary computed on the basis of proper pay fixation, is a right which subsists during the entire tenure of service and can be exercised at the time of each payment of the salary when the employee is entitled to salary computed correctly in accordance with the rules. This right of a Government servant to be paid the correct salary throughout his tenure according to computation made in accordance with rules, is akin to the right of redemption which is an incident of a subsisting mortgage and subsists so long as the mortgage itself subsists, unless the equity of redemption is extinguished. It is settled that the right of redemption is of this kind. (See *Thota China Subba Rao and others v. Mattapali Raju and others*, AIR 1950 Federal Court 1).” (emphasis supplied)

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 his 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. Further, the petitioner had earlier approached this Court by filing **CWP No.22418 of 2013** and the same was withdrawn without permission to file a fresh writ petition on the same cause of action (Annexure P-16). Thus, the petitioner cannot be allowed to approach this Court again by filing another writ petition on the same subject matter. A Two-Judge Bench of the Hon'ble Supreme Court in *Sarguja Transport Service v. State Transport Appellate Tribunal, Gwalior, 1987(1) SCC 5* had observed that:

“9. The point for consideration is whether a petitioner after withdrawing a writ petition filed by him in the High Court under Article 226 of the Constitution of India without the permission to institute a fresh petition can file a fresh writ petition in the High Court under that Article. On this point the decision in Daryao's case (supra) is of no assistance. But we are of the view that the principle underlying Rule 1 Order 23 of the Code should be extended in the interests of administration of justice to cases of withdrawal of writ petition also, not on the ground of res judicata but on the ground of public policy as explained above. It would also discourage the litigant from indulging in bench-hunting



tactics. In any event there is no justifiable reason in such a case to permit a petitioner to invoke the extraordinary jurisdiction of the High Court under Article 226 of the Constitution once again. While the withdrawal of a writ petition filed in High Court without permission to file a fresh writ petition may not bar other remedies like a suit or a petition under Article 32 of the Constitution since such withdrawal does not amount to res judicata, the remedy under Article 226 of the Constitution should be deemed to have been abandoned by the petitioner in respect of the cause of action relied on in the writ petition when he withdraws it without such permission.” (emphasis supplied)

12. In view of the foregoing discussion, the petitioner is not entitled to any relief as prayed for and the petition deserves to be dismissed. Pending miscellaneous applications, if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

28.08.2025

Neha

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