



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

122

CWP-27205-2025
DECIDED ON:12.09.2025

SUSHILA ALIAS SUSHILA DEVI

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Saurabh Bahmani, Advocate for the petitioner.

SANDEEP MOUDGIL, J

1. Prayer

This Civil Writ Petition under Articles 226/227 of the Constitution of India has been filed for the issuance of Writ in the nature of certiorari for quashing of the impugned order dated 25.10.2023 (Annexure P-6) passed by Respondent No. 2 rejecting the petitioner's representation on the ground of maintainability and further for the quashing of the impugned enquiry report dated 28.02.1994 (Annexure P-2) passed by Respondent no.5 and of dismissal order dated 16.05.1994 (Annexure P-3) passed by respondent no. 4, being illegal, arbitrary, perverse, and violative of the principles of natural justice, as the same was conducted ex-parte during the medical incapacity of the petitioner's husband, without supplying relied-upon documents, without affording cross-examination of witnesses, and by wrongly treating the suspension period as "willful absence".



2. Brief Facts

The brief facts of the case are that the petitioner's husband, Late Constable Ram Singh, was dismissed from service vide order dated 16.05.1994 (Annexure P-3), pursuant to an ex parte enquiry report dated 28.02.1994 (Annexure P-2). The said enquiry was conducted during his medical incapacity on account of a hip fracture and stands vitiated for gross violation of the principles of natural justice. Though he had preferred a statutory departmental appeal against the dismissal, the same was never adjudicated, and during its pendency, he unfortunately died in a roadside accident.

Subsequently, the petitioner made repeated efforts to obtain the relevant records and documents, but the same were not supplied to her. In fact, in response to her RTI application, it was reported that the departmental appeal file and enquiry record were "not traceable." Left remediless, the petitioner submitted a detailed representation/appeal dated 13.11.2022 before the Director General of Police, Haryana, challenging the illegality of the dismissal and seeking relief by way of setting aside of the order, release of consequential service/retiral benefits, and compassionate appointment of her daughter. However, the said representation was arbitrarily rejected vide order dated 25.10.2023 (Annexure P-6) on the ground of maintainability. The petitioner, being the widow and sole legal heir of the deceased employee, is duly entitled to assail the dismissal and claim consequential benefits. The impugned actions of the respondents are patently illegal and violative of the petitioner's fundamental rights under Articles 14 and 21 of the Constitution of India.



3. Contentions

On behalf of Petitioner

Learned counsel for the petitioner submits that from the facts and circumstances of the present case, it is apparent that the dismissal of the petitioner's husband, Late Constable Ram Singh, from service is wholly illegal and unsustainable in law. It is argued that the deceased was never associated with the departmental enquiry proceedings, which were deliberately conducted during the period when he was medically incapacitated owing to a hip fracture and was confined to bed, rendering him unable to participate in the enquiry. Such conduct amounts to a gross violation of the principles of natural justice.

It is further contended that even a bare perusal of the dismissal order dated 16.05.1994 (Annexure P-3) reveals serious infirmities. The order records that the petitioner's husband remained absent for some days in November 1990. However, in this regard, it is submitted that the deceased had already been placed under suspension with effect from 07.11.1990 and was reinstated only on 11.12.1990. Thus, treating him as absent during the said period is contrary to the factual position and clearly demonstrates that the departmental proceedings were conducted in a casual and arbitrary manner.

Counsel further submits that as per the medical certificate on record, the petitioner's husband remained confined to bed due to a hip fracture from 05.07.1993 to 09.01.1994. Despite being duly informed of his medical condition, the respondent-department erroneously treated the said period as "unauthorised absence," further reflecting the arbitrary nature of the enquiry and the resultant punishment.

Learned counsel also assails the rejection order dated 25.10.2023 (Annexure P-6) whereby the representation of the petitioner was dismissed



solely on the ground that she is not an “affected person.” It is submitted that the said reasoning is patently unsustainable in law. Being the widow and sole legal heir of the deceased government servant, the petitioner is the sole beneficiary of his service and retiral benefits and is directly entitled to family pension, gratuity, and other dues if the dismissal order is set aside.

It is further submitted that the petitioner is a widow of advanced age (about 60 years), both her daughters are married, and she has no independent source of livelihood. She is dependent upon her relatives for sustenance and is leading a life of hardship. In such circumstances, her case deserves to be considered sympathetically.

4. Analysis

Having heard learned counsel for both parties and upon perusal of the material place on record, this Court is of the opinion that no interference is warranted in exercise of writ jurisdiction under Articles 226/227 of the Constitution of India.

The admitted facts reveal that the husband of the petitioner was appointed as Constable in the respondent-department on 07.10.1979 and he was dismissed from service in the year 1994. However, the present civil writ petition has been instituted only in September, 2025, i.e., after an inordinate delay of more than 31 years. It is trite law that a litigant who sleeps over his rights cannot invoke the discretionary and equitable jurisdiction of this Court after such a long lapse of time.

Guidance may be drawn from the Supreme Court in “***State of M.P. v. Nandlal Jaiswal, (1986) 4 SCC 566***”, wherein it was categorically held that where a person approaches the Court after long delay, relief may justly be declined on the ground of laches, especially when third party rights have intervened. Relevant extract of the same is as below:



“24. Now, it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. The evolution of this rule of laches or delay is premised upon a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy under the writ jurisdiction because it is likely to cause confusion and public inconvenience and bring in its train new injustices. The rights of third parties may intervene and if the writ jurisdiction is exercised on a writ petition filed after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. When the writ jurisdiction of the High Court is invoked, unexplained delay coupled with the creation of third party rights in the meanwhile is an important factor which always weighs with the High Court in deciding whether or not to exercise such jurisdiction.”

Similarly, the Apex Court in the case of “**Karnataka Power Corpn. Ltd. v. K. Thangappan reported in (2006) 4 SCC 322**” has held as under :

“6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in Durga Prashad v. Chief Controller of Imports and Exports. Of course, the discretion has to be exercised judicially and reasonably.”

Further, discussing the third party rights accrued during the period of delay, it is apposite to place reliance on “**City and Industrial Development Corpn. v. Dosu Aardeshir Bhiwandiwalla (2009) 1 SCC 168**” wherein the Supreme Court has opined that :

"26. One of the grounds for refusing relief is that the person approaching the High Court is guilty of unexplained delay and the



laches. Inordinate delay in moving the court for a writ is an adequate ground for refusing a writ. The principle is that the courts exercising public law jurisdiction do not encourage agitation of stale claims and exhuming matters where the rights of third parties may have accrued in the interregnum."

From the aforesaid pronouncement of law, it is manifest that a litigant who invokes the jurisdiction of a court for a claim, it is obligatory on his part to come to the court at the earliest or at least within a reasonable span of time.

Thus, having regard to the admitted factual chronology and the authoritative pronouncements of the Supreme Court, this Court finds that the petitioner’s claim is vitiated by gross delay and unexplained laches. The petitioner remained indolent for over 31 years and has now sought to resurrect a stale claim without furnishing any cogent justification. The writ remedy, being discretionary in nature, is not available to a litigant who has slept over his rights and now seeks to disturb settled positions after an inordinate lapse of time.

5. **Conclusion**

Accordingly, this Court holds that the petition is barred by gross delay and laches and the writ petition lacks merit and is liable to be dismissed.

12.09.2025
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(SANDEEP MOUDGIL)
JUDGE

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