

2025.PHHC:126872



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

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**CWP-27405-2025
DECIDED ON: 15.09.2025**

ASHOK KUMAR

....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Digvijay Singh, Advocate
for the petitioner.

Mr. Sushil Bhardwaj, Addl. AG Haryana.

SANDEEP MOUDGIL, J

1. The writ jurisdiction of this Court under Articles 226 and 227 of the Constitution of India has been invoked by the petitioner seeking issuance of a writ in the nature of *Certiorari* for quashing the impugned Annual Confidential Report (ACR) dated 08.06.2009 (Annexure P-1), along with the order dated 01.10.2009 (Annexure P-3), whereby the petitioner's representation against the adverse remarks recorded in the ACR for the period from 01.04.2008 to 31.03.2009 was rejected. The petitioner has further prayed for issuance of a writ in the nature of *Mandamus*, directing the respondents to expunge the said adverse remarks, upgrade the grading for the aforesaid period, and to grant all consequential benefits flowing from such expunction and revised grading.

2. The grievance of the petitioner arises from the entry made in the ACR dated 08.06.2009, which contained adverse remarks including the notation of "integrity doubtful" by the reviewing authority. The said adverse remarks were duly communicated to the petitioner vide order dated 01.10.2009 (Annexure P-3). The petitioner, being fully aware of the said entry, submitted a representation in response thereto in the year 2009. However, despite having knowledge of the adverse entry, the petitioner failed to avail any legal remedy at the relevant time and allowed the matter to rest.

3. The record further reveals that the petitioner did not challenge the order dated 28.05.2010 (Annexure P-5), passed by the Additional Chief Secretary (Jails), Haryana, which also confirmed the adverse remarks. Instead, he approached the Governor, Government of Haryana, by way of a statutory appeal only on 25.12.2024 (Annexure P-6), which came to be rejected by the Finance Commissioner and Principal Secretary, Government of Haryana (Jails). The said appeal, styled as a "mercy appeal", filed at such a belated stage, does not vest any enforceable legal right in the petitioner so as to entitle him to invoke the extraordinary writ jurisdiction of this Court.

4. It is only upon denial of benefits under the Assured Career Progression (ACP) Scheme, allegedly due to the adverse entry in question, that the petitioner has now chosen to challenge the said remarks by filing the present writ petition after a lapse of more than sixteen years.

5. The present petition suffers from gross and unexplained delay and laches. The adverse entry was communicated to the petitioner in 2009, and the final order was passed in 2010. Yet, the petitioner has approached this Court only in 2025, i.e., after an inordinate and unjustifiable delay of over sixteen years. There is no cogent explanation forthcoming from the petitioner for this delay.

6. No hard-and-fast rule can be laid down as to when the High Court should refuse to exercise its jurisdiction in favour of a party who moves it after considerable delay and is otherwise guilty of laches. Discretion must be exercised judiciously and reasonably. In the event that the claim made by the applicant is legally sustainable, delay should be condoned.

7. A three-Judge Bench of the Hon'ble Supreme Court, has articulated the doctrine of laches in ***Chairman/ Managing Director, U.P. Power Corporation Limited & Others Vs. Ram Gopal, 2020 SCC Online SC 101*** and held as under:

*“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. Fencesitters 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 Vs. 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. Similarly, a two-Judge Bench of the Hon'ble Supreme Court, in ***Vijay Kumar Kaul V. Union of India, (2012) 7 SCC 610***, while considering the claim of candidates who, despite being higher in merit, exercised their right to parity much after those who were though lower in merit but were diligently agitating their rights, observed that:

“27. ... It becomes an obligation to take into consideration the balance of justice or injustice in entertaining the petition or declining it on the ground of delay and laches. It is a matter of great significance that at one point of time equity that existed in favour of one melts into total insignificance and paves the path of extinction with the passage of time.”

9. Further, the Hon'ble Apex Court recently in the case of ***'Mrinmoy Maity Vs. Chhanda Koley and others' 2024 SCC OnLine SC 551*** has held that High Court ought to dismiss petition on the ground of delay and laches where there is no explanation of delay. An applicant who approaches the Court belatedly or in the other words sleeps over his rights for a considerable period ought not to be granted the extraordinary relief by writ Courts. Delay defeats equity. High Court may refuse to invoke its writ jurisdiction if laxity on the part of applicant has allowed the cause of action to drift away and attempts are made to rekindle the lapsed cause of action. Multiple communications cannot create cause of action. The relevant extracts of the judgment are reproduced as below:

“9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and laches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber

ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.

10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straight jacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.

11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising

discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court.”

11. A perusal of the averments mentioned in the instant petition clearly show that no reasonable or plausible explanation has been furnished by the petitioner to condone the huge delay of 16 years. This Court is unable to find any cogent or satisfactory explanation for the inordinate delay occasioned in the present case. The dispute has been brought before this Court after the lapse of almost 16 long years. The petitioner, by way of the instant petition, is seeking to resuscitate and revive a cause of action which has long since become stale and extinguished by efflux of time. It is well settled principles of law that the extraordinary jurisdiction of this Court cannot be invoked to reopen issues which stands concluded by delay, laches or acquiescence on the part of the litigant. Equity aids the vigilant and not those who slumber over their rights. Permitting the petitioner to re-agitate such a belated claim would defeat the principles of finality in litigation and unsettle rights thereby causing serious prejudice to the opposite party.

12. In the absence of any plausible justification or bona fide explanation for such prolonged inaction, this Court is constrained to hold that the present petition is barred by delay and laches. The petitioner cannot be permitted to rekindle a lapsed cause of action or seek indulgence of this Court after having remained supine and indifferent for such an inordinate period. Further, it is an established maxim of law that *interest reipublicae ut sit finis litim* – it is in the interest of the State that there be an end to litigation. Permitting the petitioner to revive such a dead cause of action would amount to rewarding indolence and would open floodgates for belated and speculative litigation.

13. In the absence of any satisfactory much less plausible justification for the prolonged silence of the petitioner and inaction, this Court is constrained to hold that the instant petition is barred by delay and laches. Accordingly, the attempt to invoke the writ jurisdiction of this Court after an inordinate delay of 16 years is wholly misconceived and the same cannot be entertained.

14. In view of the above, the present petition is bereft of any merit and the same is hereby dismissed.

15. Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

15.09.2025
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Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*