



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

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CWP-27493-2025 (O&M)
Date of decision: 15.09.2025

Shiv Charan

....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Surinder Gaur, Advocate
for the petitioner.

Mr. Prince Singh, Advocate
for respondents No.1 to 5.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the impugned order dated 28.04.2025 (Annexure P-5) passed by respondents vide which the petitioner has been refused for stepping-up of his pay as well as revision of pensionary benefit at par with his juniors namely Ish Kumar Sehgal (J.E.) (proforma respondent No.6) and Om Parkash (J.E.) (proforma respondent No.7). Further a writ of *mandamus* has been sought, directing the respondents to step-up and fix the pay of the petitioner at par with his juniors i.e. respondents No.6 and 7, in view of the instructions dated 27.11.2006 (Annexure P-2) and instructions dated 05.03.2009 (Annexure P-6) with all consequential benefits along with



interest @ 18% per annum from the date of accrual till the date of realization.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was appointed as Shift Attendant on 06.05.1974 and he was retired as Junior Engineer (J.E.) on 31.03.2009, after rendering 34 years of service. The Government of Haryana issued Instructions dated 27.11.2006 (Annexure P-2) and thereafter, on 05.03.2009 (Annexure P-6) mandating that the General category employees are entitled to have their pay stepped-up at par with the juniors belonging to the Reserved category, who were drawing higher pay. The primary grievance of the petitioner is that despite being senior, he is drawing less pension than his juniors namely Ish Kumar Sehgal, who retired as Junior Engineer in General category – respondent No.6 and Om Parkash, who also retired as Junior Engineer in Reserved category – respondent No.7. Both of them are drawing higher pay and consequential higher pension. The petitioner submitted a detailed representation dated 11.05.2024 (Annexure P-3) seeking redressal of pay anomaly and stepping-up of his pay, which remained unheeded. The petitioner approached this Court by filing a petition i.e. CWP no.31849 of 2024, which was disposed of on 27.11.2024 (Annexure P-4), with a direction to respondent No.3 to decide the representation filed by the petitioner by passing a speaking order. In compliance thereof, respondent No.3 has passed the impugned order dated 28.04.2025 (Annexure P-5), rejecting the petitioner's claim in perfunctory manner. In support of his arguments, learned counsel for



the petitioner has relied upon Full Bench judgment of this Court in ***Saroj Kumari vs State of Punjab, 1998 (3) SCT 664*** and Division Bench judgment of this Court passed in **CWP No.735 of 2000**, titled as ***Mohinder Singh and another vs Union of India and others***, decided on **06.02.2014**.

3. *Per contra*, learned counsel for respondents No.1 to 5, appearing on advance notice, submits that the claim of the petitioner is hit by delay and laches. *Prima facie* the writ petition is not maintainable after an inordinate delay of 15 years. The petitioner has not assigned any reason to explain the inordinate delay in filing the instant writ petition. Further the claim of the petitioner for stepping-up of his pay with Ish Kumar Sehgal is not be considered at this belated stage as Ish Kumar Sehgal had filed a writ petition i.e. CWP No.4615 of 20213, which was decided on 22.11.2013 (Annexure P-7). The petitioner is a fence sitter who kept on sitting over his rights and by filing a representation or having it decided, his time barred claim cannot be revived.

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

5. 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 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 added)

6. 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.

7. Furthermore, 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.

8. In *Union of India and others v. M. K. Sarkar, (2010) 2 SCC 59*, the Hon'ble Supreme Court has ruled that when a belated representation in regard to a 'stale' or 'dead' issue/dispute is considered and decided, in compliance with a direction by the court/tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the 'dead' issue or time-barred dispute. The issue of limitation or delay and laches should be considered with



reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a Court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches.

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. However, 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)*

10. In the present case, the petitioner has approached this Court after a considerable lapse of time. Repeated representations 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.



11. As far as the citations relied upon by learned counsel for the petitioner are concerned, the same are distinguishable to the facts and circumstances of present case and thus, are not applicable to the facts of the present case.

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

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