



118

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

CWP-28340-2025

Date of decision: 22.09.2025

Vinod Kumar Mahajan

....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Kiran Bala Jain, Advocate and
Ms. Anjali Rani, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Additional A.G., Haryana.

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 impugned order dated 09.01.2025 (Annexure P-6) passed by the respondents.
2. Learned counsel for the petitioner *inter alia* contends that the petitioner was appointed as Junior Engineer in the year 1971 and he was promoted to Junior Engineer-I on 29.01.1997 and later on, as Assistant Engineer on 03.08.2005 and subsequently retired on 30.04.2007. The petitioner is placed at Serial No.197, whereas, his junior, namely, O.P. Gandhi is placed at Serial No.209 of the seniority list who is drawing a higher pay than the petitioner as discernible from the memo/letter dated 02.12.2016 (Annexure P-2). The petitioner is entitled to re-fixation of his pay to be at par with his junior. The petitioner approached



this Court on 24.04.2017 and his case was initially rejected on 24.04.2017 and he challenged the same by way of filing of CWP No.20098 of 2017 and this Court set aside the order passed by the competent authority and directed the respondents to pass a fresh speaking order. The petitioner filed COCP No.302 of 2025 due to non-compliance of the directions issued by this Court in CWP No.20098 of 2017. Respondent No.3 passed the impugned speaking order on 09.01.2025 (Annexure P-6) rejecting the claim of the petitioner for stepping-up his pay at par with his junior, namely, Om Prakash Gandhi. She further submits that there is no denial to the fact that the petitioner is senior to the aforementioned Mr. O.P. Gandhi, as such, he is entitled to the claim made by him. The anomaly is due to a mistake made by the Finance Department. She has placed reliance on the judgment of the Hon'ble Supreme Court in 'Union of India and others Vs. Shri. C.R. Madhava Murthy and another' 2022 AIR (Supreme Court) 1701.

3. On the other hand, Mr. Vikrant Pamboo, Additional A.G., Haryana puts in appearance on behalf of respondents No.1 to 3 and submits that the claim of the petitioner is barred by delay and laches. Admittedly, the petitioner retired on 30.04.2007 and he remained silent for ten years, agitating the issue of stepping-up of his pay only in the year 2017 which was rejected on 24.04.2017. Thereafter, this Court directed the respondents to pass a speaking order in the year 2017. The cause of action is barred by the principle of delay and laches as only in the year 2025 for another eight years, the petitioner remained indolent. Further, the case of the petitioner has been thoroughly examined in terms of



Government of Haryana instructions dated 02.06.2008 regarding stepping-up of pay which is permissible only if the senior officer was drawing equal or more pay than the junior at the time of promotion. This instruction was applicable on those employees who are promoted from Group D & C and for those who were recruited directly in Group C. On careful examination of pay scales of petitioner and his junior, it was found that Mr. O.P. Gandhi was drawing higher pay than the petitioner as on 01.05.2005 prior to petitioner's promotion as AE on 03.08.2005. Further, Mr. O.P. Gandhi's subsequent higher pay after 01.01.2006 was due to his entitlement to the 18 years' time scale, a personal benefit that is not subject to adjustment under the pay anomaly rules.

4. I have heard learned counsel for the parties and perused the record of the case 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. 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 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. 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



CWP-28340-2025

-7-

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. 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

22.09.2025*Neha*

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