



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

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**CWP-28513-2025 (O&M)
Date of decision: 23.09.2025**

Bikker Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Meenu, Advocate
for the petitioner (through video conferencing)

Mr. Vikas Arora, DAG, Punjab
for respondents No.1 and 2.

Ms. Deepika Bagri, Advocate
for respondents No.3 and 4.

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 mandamus, directing the respondents to count the qualifying service of the petitioners for grant of pensionary benefits w.e.f. date of joining the Corporation instead of date when they started contributing towards Provident Fund (CPF) for the first time. It is further prayed that the petitioner be held entitled to the revision of pension and also the arrears along with interest from the date the same was due.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was initially appointed as a Conductor on *ad hoc* basis on 30.03.1982 with PEPSU Road Transport Corporation, Barnala Depot,



and his services were regularized w.e.f. 30.03.1982 vide order dated 07.12.1990. After serving the respondent/Corporation, the petitioner retired on 31.07.2012. However, the sanctioning authority calculated his qualifying service from 01.07.1982 instead of 30.03.1982 and fixed his pension based on last pay drawn of Rs.11,530/- (50% of the basic pay), which is lower than the Clerks and even his juniors. Due to stagnation, the petitioner received no promotions during his 30 years of service. The petitioner is entitled to a pay scale of Rs.10,300-34,800 + Grade Pay Rs.3,200/- with an initial pay of Rs.13,500/- w.e.f. 01.12.2011, along with re-fixation of pay and revision of pension from 01.08.2012. He has faced financial loss since 01.12.2011 due to a pay anomaly. Feeling aggrieved, the petitioner served a legal notice on 24.06.2024, which was replied to by the respondents on 06.08.2024, denying his claim. In support of his arguments, learned counsel for the petitioner has relied upon the judgment *Ved Parkash vs State of Punjab and others*, passed in **CWP No.8285 of 2004**, decided on **16.09.2010**, and submits that the petitioner is entitled to the pensionary benefits from the date of joining the service.

3. Learned State counsel as well as learned counsel for respondents No.3 and 4, appearing on advance notice, submits that the case of the petitioner is hit by the principles of delay and laches. The right of the petitioner crystallized in the year 2012, when his Pension Payment Order was prepared, however, he kept mum for 12 years and no reasons has been provided for the said inordinate delay.



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 *S.S. 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 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 judgment 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. It is pertinent to note that the petitioner's reliance on the judgment in ***Ved Parkash's case (supra)***, is misplaced. Unlike the



present case, *Ved Parkash’s case (supra)* did not involve an inordinate and unexplained delay in asserting the claim. The present petition has been filed after a substantial lapse of time post-retirement, without any satisfactory explanation for such delay, which disentitles the petitioner to relief under the well-settled principles of delay and laches. Furthermore, claims related to pensionary benefits after cessation of service do not attract the principle of continuing wrong, unlike pay fixation claims during service. Therefore, the ratio of *Ved Parkash’s case (supra)* cannot be applied to revive a stale claim in the instant matter.

11. In view of the above discussions, 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

23.09.2025

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