

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.28 of 2025

Date of Decision:03.02.2025

Gurdial Singh Lineman

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTAPresent:- *Mr. Subhash Aggarwal, Advocate
for the petitioner.

*Mr. Rajesh Sehgal, Addl. AG, Punjab.

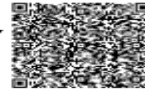
*Ms. Sehaj Sandhawalia, Advocate for
respondents No.2 to 4.

DEEPAK GUPTA, J.

By way of this writ petition filed under Articles 226/227 of the Constitution of India, petitioner prays for issuance of a writ in the nature of mandamus by directing the respondents to consider the work-charge period from 03.09.1969 to 03.08.1976 as work-charge Lineman with regular service till 30.11.2024 for the benefit of pension/ gratuity.

2. It is contended by learned counsel that the petitioner was appointed as Work Charge Lineman in the Office of Punjab State Electricity Board at Tarn Taran in the year 1969. He remained in service as Work Charge Lineman without any revision in pay. He was regularised in 1976 and remained in service till 2004 without any break and ultimately, retired in 2004. The grievance of the petitioner is that his work charge period has not been counted in the regular period. He also made repeated representations dated 20.01.2000 (*Annexure P.1*), 01.10.2013 (*Annexure P.2*), 14.09.2023 (*Annexure P.3*) and 10.08.2024 (*Annexure P.4*) but with no

response.



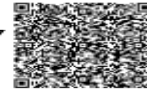
3. On advance notice, Mr. Rajesh Sehgal, Addl. AG, Punjab, appears on behalf of the respondent- State. Ms. Sehaj Sandhawalia, Advocate, appears on behalf of respondents No.2 to 4.

4. Matter is taken up today itself for final hearing with consent of both the sides.

5. I have heard learned counsel for the parties and have appraised the paper book.

6. As is evident from the paper book, petitioner had retired way back in 2004. He is presently 78 years of age. He has approached this Court by way of the present petition in 2024 i.e. after more than 20 years of his retirement for seeking the benefit of counting of his work-charge period in the regular service.

7. Thus, petition is evidently hit by the principles of long delay and laches. For filing of a writ petition under Articles 226 of the Indian Constitution, there is no strict statute of limitation. However, this does not mean that delays are entirely overlooked. The courts apply the principles of delay and laches to determine the reasonableness of the delay in filing such a petition. In this regard, courts have significant discretion to decide whether a delay is unreasonable. They consider factors such as the justification for the delay, potential prejudice to the opposing party, and the public interest involved. Delays are more likely to be overlooked if the issue pertains to public interest or affects a large number of people. If the delay is deemed unreasonable and causes prejudice to the other party, or if the petitioner has acquiesced to the situation, the court may dismiss the petition.



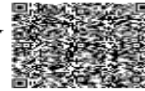
8. In ***P.S. Sadasivaswamy vs The State Of Tamil Nadu AIR 1974***

SC 2271, Hon'ble Supreme Court, observed as under:

“A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that 'here is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner's petition should, therefore have been dismissed in limine. Entertaining such petitions is a waste of time of the court. It clogs the work of the Court and impedes the work of the court in considering legitimate grievances as also its normal work. We consider that the High court was right in dismissing the appellant's petition as well as the appeal.”

9. Hon'ble Supreme Court has recently held in ***Mrinmoy Maity Vs Chhanda Koley and others, 2024 SCC Online SC 551***, as under:-

“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.

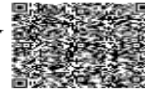


This Court time and again has held that delay defeats equity. Delay or latches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under [Article 226](#) of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary 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 latches 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 latches, 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

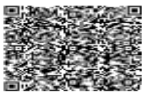


there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under [Article 226](#), the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court.

10. It is thus clear that High Court should not entertain the writ petition and should dismiss the same on the ground of delay and laches, when there is no explanation of delay. The applicant who approaches the Court belatedly or sleeps over his rights for considerable period, does not deserve to be granted the extra-ordinary relief by invoking the writ jurisdiction of the Court. It is settled proposition of law that delay defeats equity. High Court will be well within its jurisdiction to refuse to invoke its writ powers, if there is laxity on behalf of the applicant, as the said laxity allows the cause of action to drift away and attempts to rekindle the lapse cause of action. Even the delayed multiple communications cannot create cause of action.

11. A co-ordinate Bench of this Court in CWP No.31403 of 2024 titled ***Madan Lal Vs. State of Haryana and others***, decided on 17.01.2025, while dealing with the case of such an employee, who had retired long back and had invoked the writ jurisdiction of the Court for claiming Assured Career Progression, has observed as under:-

“9. This court has noticed that employees, with respect to cause of action which arose during their service period, are filing petitions after their retirement and sometimes after so many years from the date of retirement. As soon as an employee retires, employee-employer relation snaps. It is normally pleaded that employee-employer relation on account



There are service rules providing that no departmental action, after 4-5 years from the date of retirement or with respect to cause of action which arose 4-5 years prior to date of retirement, would be taken. Only object of these rules is to end the litigation. Object of principles of delay, laches and acquiescence is to put litigation to rest. The rights and liabilities of parties must settle at a particular point of time. Normally, limitation to file civil suit is 3 years. No specific period for approaching the Court under article 226 has been prescribed. Taking advantage of said fact, the retired employees are approaching this Court as and when they feel convenient. There is no Court fee and they have sufficient time to pursue the matter. The Courts are already inundated and many urgent matters are not adverted to. This Court is not oblivious of the fact that on the ground of huge pendency doors of this Court cannot be closed for any litigant, however, there is need to maintain balance and take care of interest of all the litigants in the light of limited time and resources.”

12. In the present case also, there is absolutely no explanation for delay of more than 20 years in approaching the court. The contention that the petitioner can approach the court at any point of time because of recurring cause, has no merit, as the petitioner by his act and conduct acquiesced the action of the respondents and, therefore, at this belated stage, petitioner cannot be allowed to make hay while the sun shines.

13. Consequently, the present petition is hereby dismissed being badly hit by the doctrine of delay and latches, as this Court does not find it appropriate to invoke its extra-ordinary writ jurisdiction.

February 03, 2025

(DEEPAK GUPTA)

renu

JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No