IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

LPA No.607 of 2026

Date of Decision : 27.10.2026

Sanjana Kumari

…… Appellant

Versus

State of Himachal Pradesh and others

…… Respondents

Coram:

The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice

The Hon'ble Mr. Justice Bipin Chander Negi, Judge

Whether approved for reporting?[1]

For the Appellant : Mr. Surender K. Sharma, Senior Advocate with Mr. Sidhant, Advocate.

Mr. Rakesh Dhaulta, Additional Advocate General.

G.S. Sandhawalia, Chief Justice (oral)

Notice. Mr. Rakesh Dhaulta, learned Additional Advocate General, appears and waives service of notice on behalf of all the respondents.

2. The present appeal is directed against the judgment passed by the learned Single Judge, in ***CWP No.1088 of 2021***, titled ***Sanjana Kumari vs. State of Himachal Pradesh and others***, dated 27.08.2026, wherein the learned Single Judge has dismissed the writ petition on the ground of delay and laches.

[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

3. The observations of the learned Single Judge would go to show that reliance was placed upon the judgment of the Apex Court, in ***Union of India & others v. Tarsem Singh, (2008) 8 SCC 648***, to come to the conclusion that the claim was regarding release of salary for the period from December 2015 to July 2016, and the writ petition had only been filed in the year 2021 after a gap of five years from July, 2016, when the last cause of action accrued. Therefore, the writ petition was held to be barred by delay of five years and no relief could be granted.

4. We have gone through the said record and found that the factum of the appellant still being in service and the subsistence of the relationship of employer and employee, the withholding of salary would amount to holding back dues by the Welfare State, who ought to be the guardian of the said amount.

5. In the peculiar facts and circumstances of the case, the reply would go on to show that the issues had indeed been raised, but the reasons why the salary had been withheld were never taken into consideration, and the matter was never adjudicated on the merits of the case, but the writ petition was dismissed solely on the ground of delay and laches.

6. The judgment which has been relied upon by the learned Single Judge also was a case, where the High Court, as such, had granted the benefit of disability pension after a period of 16 years, and in such circumstances, the observations had flowed from the Apex Court, whether the relief should have been restricted to only three years prior to

the date of filing of the writ petition. Even in that case, relief had indeed been granted for the said period.

7. The factor as to whether the rights of third parties would be affected was also taken into consideration to come to the conclusion that where the issue relates to payment or re-fixation of pay or pension, relief can be granted as it does not affect the rights of third parties, whereas, where issues involve seniority or promotion affecting the rights of others, delay would render the claim stale and the same could not be adjudicated upon.

8. In the present case, as noticed, the claim is only regarding non-payment of the salary amount for the reasons which are yet to be adjudicated and whether the respondents were justified in withholding the same.

9. The essence of the matter is that it constitutes a continuing wrong, and the amount being withheld by the State continues to be a source of injury. Apparently, this aspect missed the notice of the learned Single Judge. This principle has also been enunciated by the Apex Court in ***Balakrishna Savalram Pujari Waghmare and others vs. Shree Dhyaneshwar Maharaj Sansthan and others, AIR 1959 SC 798***.

10. In such circumstances, we are of the considered opinion that the impugned judgment passed by the learned Single Judge would require interference. Resultantly, we allow the appeal. The impugned judgment is set aside and the writ petition is restored to its original number and position, to be decided afresh on merits of the case.

11. The parties are directed to put in appearance before the learned Single Judge on **03.12.2026.**

12. Pending miscellaneous application(s), if any, shall also stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

October 27, 2026 **(KS)**