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

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CWP-3792-2001

Date of Decision: **March 09, 2026**

Neelam Minocha deceased through LRs

.....Petitioners

VERSUS

Haryana Vidyut Prasaran Nigam and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Pradeep Sharma with Ms. Priyanka Dhillon, Ms. Mehak Kanwar & Ms. Anjana Masih, Advocates for the petitioners.

Mr. R.K.S. Brar, Advocate for respondent No.1.

Mr. Saurabh Girdhar, AAG Haryana-State.

HARPREET SINGH BRAR, J. (Oral)

1. The present writ petition has been filed under Article 226 of the Constitution of India with a prayer for issuance of an appropriate writ or order in the nature of *certiorari* for setting aside the letter dated 09.08.2000 (Annexure P-7) passed by respondent No.1, whereby the petitioner's claim for family pension to be determined as per New Pay Scale applicable from 01.01.1996 treating the deceased petitioner's husband as Executive Engineer in spite of his holding current duty charge of the post of Executive Engineer

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(Civil) at the time of his untimely demise on 20.03.1983 has been rejected in violations of provisions enshrined in Articles 14, 16 and 39(d) of the Constitution of India and further for directing the respondents to consider the claim for payment of family pension. Further for directing the respondents to release the pay and allowances attached with the post of Executive Engineer for the period the petitioner's deceased husband held the charge to the post of Executive Engineer at par with regular Executive Engineer along with interest @ 15% per annum.

PETITIONER'S CONTENTIONS

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner's husband was appointed as Graduate Technical Assistant (Civil) on 24.01.1975 and joined his duties on 08.02.1975. Thereafter, the husband of petitioner was given the current duty charge of the post of Executive Engineer, as is discernible from Annexures P-1 to P-4 appended with the paper book of the present writ petition. Unfortunately, the husband of petitioner expired on 20.03.1983. It is further submitted that the respondents counted the initial appointment of the husband of petitioner as qualifying service towards pension in terms of Rule 3.8 of the Punjab Civil Services Rules, Volume II, as the petitioner's husband had taken the charge of the post of A.E. Thereafter, on 30.05.2000, the petitioner submitted a representation to the respondents for fixation of the family pension of her late husband as per the new pay scales w.e.f. 01.01.1996, and also for treating her husband as XEN for all intents and purposes, as is evident from Annexure P-5. However, the late husband of petitioner was not treated as

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XEN for the purpose of calculating pension vide order dated 09.08.2000 (Annexure P-7). Feeling aggrieved thereof, the petitioner served a legal notice dated 01.09.2000 (Annexure P-8), contending that the impugned order dated 09.08.2000 (Annexure P-7) is not legally sustainable. The petitioner has, thus, prayed for setting aside the impugned order dated 09.08.2000 (Annexure P-7) and for striking down the condition requiring 8 years of service as A.E. Class-II/AEE for promotion to the post of XEN, being arbitrary, unreasonable and violative of Article 14 of the Constitution of India.

RESPONDENTS' CONTENTION

3. *Per contra*, learned counsel for the respondents—Nigam opposed the prayer made by the petitioner on the ground that the petitioner had approached this Court after an inordinate delay of more than 17 years. It is contended that such unexplained delay disentitles the petitioner from claiming any relief under the writ jurisdiction of this Court. Learned counsel submits that the petitioner, for the first time, made a representation only on 30.05.2000 (Annexure P-5), whereas the husband of the petitioner had admittedly died in harness on 20.03.1983, and the present writ petition has been instituted in the year 2001. It is further contended that the late husband of petitioner was not eligible for the post for which he had been assigned the current duty charge, and the said arrangement was merely a stop-gap arrangement without conferring any legal right. Therefore, the service rendered on the basis of such current duty charge cannot be counted for the

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purpose of claiming any consequential benefits. Learned counsel further submits that in the absence of any challenge to the relevant statutory Rules, the petitioner cannot seek the relief prayed for. In support of the said contention, reliance has been placed upon the judgment of a Division Bench of this Court in *Dhani Ram vs. State of Haryana and others, 2005 (1) SCT 571*. On these grounds, it is prayed that the present writ petition, being barred by delay and laches, deserves to be dismissed.

OBSERVATIONS AND ANALYSIS

4. I have heard learned counsel for the parties and have perused the record with their able assistance. From the material placed on record, it transpires that the husband of petitioner expired on 20.03.1983. However, the first representation was submitted to the respondents only on 30.05.2000 (Annexure P-5), i.e., after a lapse of about 17 years. Thereafter, the present writ petition has been filed in the year 2001. The petitioner not been able to point out any cogent or satisfactory explanation for such an inordinate delay in approaching this Court.

4.1 It is well settled that the extraordinary jurisdiction of this Court under Articles 226/227 of the Constitution of India is discretionary in nature and a person who approaches the Court after an inordinate and unexplained delay is not entitled to claim relief as a matter of right. The doctrine of delay and laches squarely applies in the present case, as the petitioners remained silent for a considerable period and woke up only after several years.

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4.2 Moreover, apart from the delay, it is also not in dispute that the husband of petitioner was merely given the current duty charge of the post of Executive Engineer and the said arrangement was only a stop-gap arrangement which did not confer any substantive right upon him to claim the benefits of the said post. Furthermore, no effective challenge has been laid to the relevant statutory Rules governing promotion to the post of Executive Engineer. In similar circumstances, a Division Bench of this Court in ***Dhani Ram (supra)***, has held that in the absence of a challenge to the Rules, the petitioner is not entitled to any relief under the writ jurisdiction of this Court.

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 for the petitioner has failed to specify any compelling or extenuating circumstance which prevented her 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

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*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. Reliance can also be placed on the judgment rendered by a Division bench of this Court in *Kartar Singh vs. Managing Director, HVPNL and others*, **CWP No.26962 of 2015** decided on 04.04.2018 as well as a Coordinate Bench of this Court in *Jai Narain Rohilla vs. Uttar Haryana Bijli Vitran Nigam Ltd* in **CWP-1167 of 2025** decided on 17.01.2025.

7. 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.

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

(HARPREET SINGH BRAR)
JUDGE

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P.C

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No