



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

119

**CWP-8664-2026 (O&M)
Date of decision: 20.03.2026**

Om Parkash and another

....Petitioners

Versus

Haryana Power General Corporation Limited and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.K. Malik, Sr. Advocate
with Mr. Ankur Sheoran, Advocate
for the petitioners.

Mr. Vikrant Pamboo, Advocate for the respondents

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 *certiorari*, for quashing the order dated 10.02.2026 (Annexure P-10) vide which the claim of the petitioners for promotion as FM-III, FM-II and FM-I from the date their juniors namely Jai Kumar and Sultan Singh have been promoted and the petitioners be granted all the consequential benefits or in alternative, the petitioners be promoted as FM-III, FM-II and FM-I from the date their juniors i.e. Jai Kumar and Sultan Singh have been promoted notionally and actual benefits be granted from the date the petitioners have attained the age of superannuation.



2. Learned Senior counsel for the petitioners, *inter alia*, contends that the petitioners were appointed in the Thermal Power Plant and they have been agitating their service rights since 1995. The petitioners had initially filed a civil suit which was decreed in their favour vide judgment and decree dated 25.03.1995 passed by learned Sub-Judge Ist Class, Panipat, however, the said decree was set-aside in appeal on 07.04.1997, which led to the filing of RSA No.2173 of 1997 before this Court. During the pendency of the said proceedings, one of the junior, namely Jai Kumar, withdrew from the said RSA and instituted a fresh civil suit in the year 2001, which was decreed on 31.05.2003 and the appeal preferred by the respondent/Corporation was dismissed on 13.02.2004, pursuant to which he was granted promotion to the post of FM-III vide order dated 18.11.2005. He further submits that another junior, namely Sultan Singh, was also granted promotions as FM-III w.e.f. 16.01.1986, FM-II w.e.f. 22.06.2007 and FM-I w.e.f. 25.07.2011. Learned Senior counsel for the petitioners further contends that as per the seniority list, petitioner No.1 Om Parkash is placed at Sr. No.30 and petitioner No.2 Rajbir is placed at Sr. No. 81, whereas Jai Kumar is placed at Sr. No.88 and Sultan Singh is placed at Sr. No.158, which clearly indicates that the petitioners are senior to the aforesaid employees, yet they have been denied similar benefits. He further submits that the petitioners withdrew the aforesaid RSA on 07.08.2025 with liberty to institute appropriate proceedings to claim parity with Jai Kumar. Thereafter, the petitioners served a demand notice dated



22.08.2025, which remained unheeded and the petitioners were compelled to approach this Court by filing CWP No.32682 of 2025, which was disposed of on 06.11.2025 with a direction to decide their representation. In purported compliance, their claim has been rejected vide impugned order dated 10.02.2026 solely on the ground of delay and laches.

3. *Per contra*, learned counsel for the respondents submits that the petitioners were initially engaged on work-charge basis as petitioner No.1 was engaged on 01.08.1974 and petitioner No.2 was engaged on 19.04.1975, respectively, followed by their regularization. He further submits that the claim of the petitioners by relying upon the promotion of Jai Kumar and Sultan Singh is totally misplaced. The present writ petition is liable to be dismissed on the ground of delay and laches, as the cause of action, if any, arose when the juniors, namely Jai Kumar and Sultan Singh, were promoted, i.e. as early as 16.01.1986, 18.11.2005, 22.06.2007 and 25.07.2011, whereas the petitioners have raised their claim for the first time on 22.08.2025. He further submits that mere higher placement in the seniority list, being at Sr. Nos.30 and 81 as against Sr. Nos.88 and 158, does not entitle the petitioners to claim promotion after such an inordinate delay, particularly when they failed to challenge the promotions at the relevant time. Learned counsel for the respondents further submits that withdrawal of RSA on 07.08.2025, issuance of demand notice dated 22.08.2025 and disposal of earlier writ petition on 06.11.2025 do not revive a stale cause of action.



The petitioners have already been superannuated and therefore, their claim is not maintainable at this belated stage.

4. I have heard learned counsel for the parties and perused the record with their able assistance.

5. It is apparent on the record that petitioner No.1 is 62 years of age and petitioner No.2 is 77 years of age. The petitioners had earlier filed a civil suit seeking declaration to the effect that they were entitled to be promoted to the post of AFM/Foreman-III w.e.f. 01.07.1978 on account of alleged super-session and non-consideration of their representations. The said civil suit was decreed, however, the appeal filed by the respondent/Corporation was allowed on 07.04.1997, which led to the filing of RSA No.2173 of 1997 before this Court. During the pendency of the said RSA, one of the juniors, namely Jai Kumar, withdrew from the proceedings and filed a separate civil suit which was decreed on 31.05.2003 and upheld in appeal on 13.02.2004, pursuant to which he was granted promotion on 18.11.2005. Similarly, another junior, Sultan Singh, was granted promotions from time to time, lastly on 25.07.2011. Thus, the right, if any, of the petitioners stood crystallized on 18.11.2005 when Jai Kumar was promoted and, in any case, by 25.07.2011 when Sultan Singh was promoted. However, the petitioners remained indolent and continued to sit over the matter, ultimately withdrawing the RSA on 07.08.2025 and thereafter, issued a demand notice dated 22.08.2025 and approached this Court by filing CWP-32682-2025, which was disposed of on 06.11.2025 with a



direction to the respondents therein to decide the representation and in compliance thereof, the claim of the petitioners has been rejected vide impugned order dated 10.02.2026 on the ground of delay and laches. The petitioners, have failed to challenge the promotions at the relevant time and they have approached this Court after an inordinate and unexplained delay. Consequently they do not deserve any indulgence under the extraordinary writ jurisdiction of this Court.

6. 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 Senior counsel petitioners has failed to specify any compelling or extenuating circumstance which prevented the petitioners 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)

7. 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.

8. 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.

9. 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.

10. 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)

11. In the present case, the petitioners have 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 Senior counsel for the petitioners for the delay in filing the present petition.

12. 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

20.03.2026
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No