

CWP-12897-2026

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2026:PHHC:078167



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

**CWP-12897-2026 (O&M)
Date of decision: 19.05.2026**

Subhash Chander

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ankur Lal, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Addl. AG, Haryana.

Mr. Parminder Sandhu, Advocate for
Mr. Harmanjot Singh Gill, Advocate
for respondents No.2 & 3.

HARPREET SINGH BRAR, J. (ORAL)

1. Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to refix the seniority of the petitioner and to grant him notional promotion to the post of Assistant from 16.06.2011, the date from which his juniors were promoted and further to direct the respondents to consider his case for promotion to the post of Deputy Superintendent and



grant notional promotion on the said post.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was appointed as Clerk on 16.10.1987 and promoted to the post of Sub Divisional Clerk on 22.11.2007. He raised the grievance with regard to passing of the order dated 16.06.2011 (Annexure P-1), vide which the persons junior to him were promoted to the post of Assistant, while keeping one post reserved for the petitioner due to incomplete ACRs, an administrative lapse, which cannot be attributed to him. The petitioner was eventually promoted to the post of Assistant on 03.03.2014 (Annexure P-2), but was not granted notional date of promotion from 16.06.2011. Learned counsel refers to office order dated 26.04.2018 (Annexure P-3), perusal of which indicates that similarly situated employees were granted deemed date of promotion from which their juniors were promoted. Due to this denial, the petitioner became eligible for promotion to the post of Deputy Superintendent in the year 2016, which was arbitrarily denied. Further, the petitioner was suspended on 30.08.2018 and thereafter, reinstated on 13.02.2019. A criminal case and departmental proceedings pending against the petitioner were stayed by this Court vide order dated 27.10.2025 (Annexure P-8). Despite this, promotion order dated 01.09.2021, promoting 42 Assistants, including one, against whom disciplinary action was pending, while ignoring the petitioner. He was granted service extension upto 31.03.2027, as discernible from office order dated 12.08.2025 (Annexure P-9). Further, action of the respondents to deny



notional promotional to the petitioner from the date, from which his juniors were promoted, due to incomplete ACRs, is arbitrary and discriminatory. Moreover, mere pendency of criminal case/chargesheet, without any finding of guilt, cannot be a valid ground for denying promotion. It is further submitted that the petitioner submitted a representations dated 14.10.2024 (Annexure P-10) seeking notional promotion to the post of Assistant w.e.f. 16.06.2011 and further to promote him as Deputy Superintendent, before respondent No.2-Chief Administrator, HSVP, which remain unheeded. Hence, the present petition.

3. *Per contra*, learned counsel for respondents No.2 & 3 submits that the present petition suffers from the vice of delay and laches. The petitioner is seeking notional promotion w.e.f. 16.06.2011. The claim of the petitioner arose; firstly, on 16.06.2011, when his juniors were promoted as Assistant and thereafter, on 03.03.2014, when the order (Annexure P-2) was passed promoting him on the said post along with 17 other employees. Further, the grievance with regard to promotion can only be raised within a reasonable time, as the seniority cannot be disturbed after long lapse of time.

4. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that primary grievance of the petitioner is regarding passing of the order dated 16.06.2011 (Annexure P-1), vide which persons junior to him were promoted to the post of Assistant, whereas he was promoted only on 03.03.2014, as discernible



from Annexure P-2. Now the petitioner is aggrieved by the action of the respondents that while he was promoted as Assistant on 03.03.2014, notional benefits were not granted w.e.f. 16.06.2011, the date from which his juniors were promoted. Further, the petitioner was granted extension in service beyond the age of 55 years upto 31.03.2027. As such, the petitioner has approached this Court seeking notional promotion from 16.06.2011 after a long lapse of time, which is contrary to the law laid down by the Hon'ble Supreme Court in ***Government of West Bengal and others Vs. Dr. Amal Satpathi and others, 2024 INSC 906***. As such, failure of the petitioner to seek promotion within a reasonable time alone would be sufficient to dismiss the present petition.

5. Further, learned counsel for the petitioner concedes that the claim of the petitioner arose firstly in the year 2011 and thereafter, on 03.03.2014. However, he could not provide any satisfactory reason to justify the delay in approaching 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, facts of the matter at hand indicate otherwise. Learned counsel for the 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 *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)

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 reasoned enough to dismiss a petition, as indolent litigants ought not to be encouraged by writ Courts.

8. In *State of Uttaranchal Vs. 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 Vs. 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 direction of a Court to consider the 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 of the Hon'ble Supreme Court in *M.R. Gupta Vs. Union of India*, (1995) 5 SCC 628 and has been reaffirmed by a Full Bench decision of this Court in *Saroj Kumari Vs. 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 Vs. 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 petitioner has approached this Court after



a considerable lapse of time. Repeated representation(s) will not keep the issue(s) alive and no plausible explanation has been offered by learned counsel for the petitioner for the delay in filing the present petition.

12. In view of the above discussion, this Court does not find it appropriate to invoke its extraordinary writ jurisdiction under Article 226 of the Constitution of India.

13. Accordingly, the present petition stands dismissed.

14. The pending miscellaneous application(s), if any, shall stand disposed of.

19.05.2026
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[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No