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

CWP-15182-2026

Date of decision: 21.05.2026

Kuldeep Singh Sandhu

....Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Jitender Nara, Advocate
for the petitioner.Mr. Prince Singh, Advocate
for respondents No.3 & 4.**HARPREET SINGH BRAR, J. (ORAL)**

1. The present civil writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 08.12.2020 (Annexure P-22) and impugned order dated 04.08.2025 (Annexure P-23) vide which the claim of grant of ACP to the petitioner has been declined. Further, for issuance of a writ in the nature of *mandamus* directing the respondents to grant the benefit of next ACP grade pay with reference to the grade pay of the promotional post, held by the petitioner from 31.10.1996 to 31.10.2006 without any financial upgradation, w.e.f. 31.10.2006 along with arrears, fixation of pay and pension/revised pension with interest and all other consequential benefits arising therefrom.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was appointed as Accounts Officer in erstwhile Haryana State Electricity Board on 07.02.1985. The petitioner was promoted to the post of Senior Accounts Officer on 08.06.1990. Thereafter, he was promoted to the



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post of Chief Accounts Officer and upon restructuring of the Electricity Board in the year 1998, the petitioner's services were allocated to HPGCL. The petitioner remained stagnated on the post of Chief Accounts Officer until his superannuation on 28.02.2011. The petitioner was entitled to the next ACP grade pay upon completion of 10 years of regular satisfactory service on the promotion post w.e.f. 31.10.2006 under Rule 7(4) of ACP Rules. He further refers to Annexure P-1 and submits that perusal of the same clearly indicates that recommendation for grant of next ACP grade pay was made on 22.10.2014. The petitioner's claim was kept pending on the pretext of some pending charge sheets. The petitioner made a representation on 15.02.2010 (Annexure P-9) before his retirement followed by reminders on 19.01.2011 and 16.02.2011. Even the financial advisor on 16.09.2014 rendered an opinion that the petitioner is eligible for ACP grade pay as discernible from Annexure P-10. The case of the petitioner was illegally rejected by the Managing Director of the respondent-Corporation on 05.06.2017 on the ground of delay and laches, whereas, it is a recurring cause of action and petitioner claim cannot be rejected on the ground of delay and laches. He further relies upon the judgment of the Hon'ble Supreme Court in ***Union of India and others Vs. Tarsem Singh 2008 (8) SCC 648*** and also the judgment of the Division Bench of this Court in LPA No.1254 of 2009 titled as ***Balwant Singh Vs. State of Haryana and others*** decided on 02.08.2010. It is further contended that the junior of the petitioner, namely, Mr. K.K. Marwar was granted ACP benefit on 12.04.2010 (Annexure P-19) and Mr. D.C. Aggarwal, who was a senior granted ACP grade pay w.e.f. 01.01.2006 as discernible from Annexure P-20. The petitioner submitted a



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legal notice on 21.09.2020 which was rejected vide order dated 08.12.2020 (Annexure P-22). The petitioner again approached the respondents and vide the impugned order dated 04.08.2025, his claim was again rejected.

3. *Per contra*, learned counsel for the respondent-Corporation refers to Annexure P-22 at Page No.84 of the paper book and submits that the petitioner had attained the age of superannuation on 28.02.2011, whereas, the post of Controller of Finance came into existence in the respondent-Corporation on 09.09.2014 i.e. after the retirement of the petitioner. By virtue of his promotion to the highest rank in the hierarchy, the petitioner was already drawing the highest salary in the grade pay and there was no further scale either under the ACP scales or in the hierarchy. As such, the claim of the petitioner is devoid of merit. Further, it is contended that the claim is hit by the principle of constructive *res judicata*, as the petitioner had earlier approached this Court by filing CWP No.25261 of 2022. As per the pleadings, the alleged cause of action arose on 31.10.1996, whereas, the petitioner's claim was first rejected on 05.06.2017 (Annexure P-11) and, thereafter, again on 08.12.2020 (Annexure P-22). Further, after retirement the petitioner cannot agitate a claim regarding pay revision by making repeated representations. It is a settled proposition of law that repeated representations do not revive a dead claim.

4. Having heard learned counsel for the parties and after perusal of the record with their able assistance, it transpires that the petitioner retired on 28.02.2011. At the time of his retirement, he was holding the highest post in the hierarchy and was drawing the highest salary in the grade pay. The claim of the petitioner was rejected for the first time on 05.06.2017 (Annexure P-11).



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Thereafter, the petitioner approached this Court by way of filing CWP No.25261 of 2022 seeking counting of his past service. The cause of action which is now sought to be agitated through the present writ petition had already arisen earlier. As such, the present writ petition is barred by the principle of constructive *res judicata* in terms of Order II Rule 2 CPC. Further, the claim made by the petitioner is also hit by the vice of delay and laches, inasmuch as the first rejection order was passed on 05.06.2017 (Annexure P-11) and thereafter again on 08.12.2020 (Annexure P-21). By filing repeated representations, the petitioner cannot revive a dead claim.

5. A Constitution Bench of the Hon'ble Supreme Court in *Devilal Modi v. Sales Tax Officer, Ratlam and Others, 1964 SCC OnLine SC 17* has clearly held that the principle of Constructive *Res Judicata* would be applicable to the writ proceedings as well. The Court speaking through Justice P.B. Gajendragadkar observed as follows in Para 9 of the judgement:

“9. It may be conceded in favour of Mr Trivedi that the rule of constructive res judicata which is pleaded against him in the present appeal is in a sense a somewhat technical or artificial rule prescribed by the Code of Civil Procedure. This rule postulates that if a plea could have been taken by a party in a proceeding between him and his opponent, he would not be permitted to take that plea against the same party in a subsequent proceeding which is based on the same cause of action; but basically, even this view is founded on the same considerations of public policy, because if the doctrine of constructive res judicata is not applied to writ proceedings, it would be open to the party to take one proceeding after another and urge new grounds every time; and that plainly is inconsistent with considerations of public policy to which we have just referred.” (emphasis supplied)



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 counsel petitioner has failed to specify any compelling or extenuating circumstance which prevented him/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 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 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



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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 re-fixation 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 judgement 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 petitioner has 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 counsel for the petitioner for the delay in filing the present petition.

12. 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.

(HARPREET SINGH BRAR)
JUDGE

21.05.2026
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No