



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

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**CWP-15915-2026 (O&M)
Date of decision: 20.05.2026**

S.K. Sharma

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Raman B. Garg, Advocate
with Mr. Mayank Garg, Advocate
Ms. Komal Parveen Singh, Advocate
and Mr. Ajay Sharma, Advocate
for the petitioner.

Mr. Piyush Khanna, Addl. A.G., Haryana
for respondent No.1.

Mr. Vikrant Pamboo, Advocate
for respondents No.2 and 3.

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 impugned order dated 19.01.2021 (Annexure P-34) whereby pay of the petitioner has been wrongly fixed and letter dated 03.03.2025 (Annexure P-39) and speaking order dated 27.11.2025 (Annexure P-43) whereby the claim of the petitioner for selection grade and ACP scales has been rejected. Further prayer has been made to direct the respondents to grant the benefit of selection grade of ₹4100-5300 w.e.f. 01.06.1993 to the petitioner on completion



of 12 years of regular satisfactory service as per the terms of order dated 16.05.1990 (Annexure P-6) as granted to the junior of the petitioner namely Sh. Satish Kumar Aggarwal vide pay fixation order dated 09.03.2021 (Annexure P-36). Further a writ of *mandamus* has been sought, directing the respondents to grant 2nd ACP scale of ₹12000-16500 w.e.f. 01.01.1996 to the petitioner at par with his juniors namely Sh. Satish Kumar Aggarwal, Sh. Laxman Dass, Sh. Jai Singh, Sh. Satinder Singh and Sh. N.S. Kundu; and in the light of the judgment dated 30.11.2018 passed by this Court in the case of ***Dinesh Kumar vs. State of Haryana, 2019 (1) SCT 732*** (Annexure P-21) and implemented by the respondent/Board in its order dated 03.06.2019 (Annexure P-22) with all consequential benefits including arrears with interest @18% per annum. Further prayer has been made to direct the respondents to grant the petitioner 3rd ACP grade pay of ₹8700 in the pay scale of ₹37400-67000 w.e.f. 01.09.2009 on completion of 17 years of regular satisfactory service after entry in the service as Sub-Divisional Engineer in terms of provision of the Haryana Civil Services (Assured Career Progression) Rules, 2008 read with policy decision dated 19.08.2009 (Annexure P-23), letter dated 29.4.2013 (Annexure P-16) and order dated 9.3.2021 (Annexure P- 36) passed by the respondent Department with all consequential benefits including arrears with interest @18% per annum.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was promoted as Sub-Divisional Engineer on 21.05.1981



and Executive Engineer on 22.02.2010 w.e.f. 03.02.2008. The petitioner is senior to Sh. Satish Kumar Aggarwal, Sh. Laxman Dass, Sh. Jai Singh and Sh. Satinder Singh in the gradation list pertaining to the year 1997 and 1999. The juniors officers were granted the 1st ACP scale w.e.f. 01.01.1996 whereas the petitioner was wrongly granted a lower scale on 15.07.2011. Further, his juniors were granted the 2nd ACP scale in the year 2013 to 2015 as discernible from Annexures P-17 to P-19, respectively, but the petitioner was denied the same on the ground that he was a promotee while his juniors were direct recruits, however, this discrimination was removed under the ACP Rules, 2008. He further submits that the case of the petitioner is squarely covered by the judgment rendered by this Court in **CWP-25633-2015**, titled as ***Dinesh Kumar vs State of Haryana***, decided on **30.11.2018**, whereby it has been categorically held that a junior cannot draw higher pay than a senior. Learned counsel for the petitioner further submits that the petitioner was also denied the 3rd ACP Grade Pay w.e.f. 01.09.2009, while his junior Sh. Satish Aggarwal was granted the same on 09.03.2021. The petitioner's claim was repeatedly rejected. Learned counsel for the petitioner refers to the letter (Annexure P-16) and submits that on 29.04.2013, a revision of pay-scale of Technical Officer was brought at par with the employees of the coordinate post in the Department of PWD (B&R) of the State of Haryana. As such, the petitioner is entitled to the same relief as has been granted by this Court in ***Dinesh Kumar's case (supra)***.



3. *Per contra*, learned State counsel as well as learned counsel for respondents No.2 and 3, opposes the prayer made by the petitioner on the ground that the petitioner's claim cannot be considered at this belated stage and the petitioner is a fence-sitter. The petitioner remained silent for several years. Learned counsel for respondents No.2 and 3 further submits that the petitioner had retired on 31.08.2012. The cause of action has arisen firstly on 15.07.2001 when the petitioner was granted a lower pay-scale than his juniors and thereafter, in the year 2013 when his juniors were granted 2nd ACP scale. The reliance of the petitioner on ***Dinesh Kumar's case (supra)*** is totally misconceived as the petitioners therein were diligent enough to approach this Court well in time whereas the present petitioner slept over his rights and have filed the present petition only when a favourable order was passed in favour of other co-employees. He further contends that the revised pay-scale was implemented on 29.04.2013 (Annexure P-16) and as such, the dead claim of the petitioner cannot be revived by filing representations or serving legal notice, after his retirement.

4. Having heard the learned counsel for the parties and after perusing the record of this case, this Court finds no substance in the arguments raised by the learned counsel for the petitioner.

5. From the perusal of the record, it transpires that the petitioner stood retired on 31.08.2012 and the revision of pay-scale was implemented on 29.04.2013 (Annexure P-16), after this Court in **CWP-13055-1993**, titled as ***Anil Kumar Aggarwal and another vs State of***



Haryana and others, decided on **16.04.2009**, directed the respondents to grant the benefit of circular dated 02.06.1989 at par with the employees of the State Government. The petitioner was granted a lower pay-scale than his juniors on 15.07.2011 and 2nd ACP scale was denied to him in the year 2013 whereas his juniors were granted the same benefits.

6. It is a well-settled principle of law that the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India is discretionary and cannot be invoked by those who sleep over their rights. In the present case, the petitioner approached this Court after a delay of over 12 years and remained silent for several years while similarly situated employees diligently asserted their rights and obtained relief. A mere filing of a representation dated 18.03.2025 (Annexure P-40) cannot revive a dead/stale claim or provide a fresh cause of action to bypass the period of limitation. While the petitioner seeks parity with the directions issued in ***Dinesh Kumar's case (supra)***, it is evident that he chose to remain a "fence-sitter," waiting for the outcome of litigation initiated by other employees. The delay and inaction on the part of the petitioner dis-entitle him to invoke the discretionary relief of this Court under Article 226 of the Constitution of India, and thus, in these circumstances, the claim of the petitioner cannot be entertained at this belated stage.

7. Moreover, it is a 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 the petitioner 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)

8. 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.

9. 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.

10. 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.

11. 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)

12. In the present case, the petitioner has approached this Court after a considerable lapse of time. Repeated representations or legal notices 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 writ petition.

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13. 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 writ petition is dismissed.

14. Pending miscellaneous application, if any, also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

20.05.2026

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