



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

CWP-19116-2026

Date of decision: 01.07.2026

Satwanti Devi

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Dr. Suresh Kumar Redhu, Advocate
for the petitioner.

Mr. Harish Nain, DAG, Haryana.

Mr. Rajesh Gaur, Advocate
for respondent No.3.

HARPREET SINGH BRAR, J. (ORAL)

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing letter dated 03.09.2024 (Annexure P-11). Further, for issuance of a writ in the nature of *mandamus* directing the respondents to release the 1st ACP/financial upgradation along with all consequential benefits including arrears with interest @ 9% per annum on delayed payment.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was appointed as Assistant Librarian on 22.01.2000 and thereafter, was confirmed w.e.f. 21.01.2002 as discernible from Annexures P-1 & P-2, respectively. The petitioner acquired B.Lib.Sc. on 06.06.2004 and M.Lib.Sc. in May, 2008. The State Government conveyed approval for the creation of posts and absorption of staff of erstwhile Technical Institute Gurukul Bhainswal Kalan, Sonapat vide memo dated 25.05.2010 (Annexure P-3). The petitioner was regularized as Junior Librarian on 25.06.2010 (Annexure P-4). The Finance Department issued ACP/MACP guidelines/functional grade

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upgradation vide order dated 28.08.2014 (Annexure P-5). The Director Higher Education directed grant of notional pay fixation to eligible employees of erstwhile Technical Institute Gurukul Bhainswal Kalan, Sonapat from the date of initial appointment/acquiring qualification vide memo dated 02.11.2016 (Annexure P-6). The name of the petitioner finds mentioned at serial No.24. Thereafter, the order granting notional pay fixation was issued vide office order dated 18.07.2019 (Annexure P-8). The petitioner's pay was fixed provisionally as Junior Librarian as on 01.01.2016 in Level-6 Cell-4 vide order dated 25.09.2019 (Annexure P-9). The petitioner submitted a representation on 22.07.2024 (Annexure P-10) seeking 1st ACP which was not granted. The claim of the petitioner has been kept pending on the plea that correspondence regarding pay anomaly is pending with respondent No.2.

3. *Per contra*, learned State counsel opposes the prayer made by learned counsel for the petitioner on the ground that the claim raised by the petitioner is hopelessly time barred. The petitioner is seeking revision of her pay after her retirement in the year 2022. The cause of action has arisen firstly in the year 2012 when the petitioner became eligible for the ACP benefit from the date of her initial appointment and, thereafter, in the year 2018 when she became eligible from the date of acquiring the requisite qualification. Further, the petitioner was granted notional pay fixation on 02.11.2016 (Annexure P-6) and petitioner till her retirement, has not raised any grievance, as such, at this stage, the petitioner's claim is required to be dismissed on the ground of delay and laches.

4. Having heard learned counsel for the parties and after perusal of



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the record of the case, it transpires that the petitioner was initially appointed as Assistant Librarian on 22.01.2000 and retired in the year 2022. The petitioner is claiming 1st ACP benefit on the ground that she has completed the requisite period in the year 2012 if it is counted from the date of initial appointment and thereafter, in the year 2018 if the requisite period is counted from the date of acquisition of qualification. As such, the petitioner's claim for ACP seeking revision cannot be considered at this stage.

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 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)

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.

7. 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.

8. 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.

9. 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)

10. 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.

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11. 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

01.07.2026*Neha*

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