206 IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**CWP-9502-2015 (O&M)**
**Date of decision: 20.01.2026**

**SUBHASH CHANDER ....Petitioner**

**Versus**

**THE PUNJAB STATE CO-OP SUPPLY & MARKETING FEDERATION LTD AND ANR ....Respondents**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Tahaf Bains, Advocate for the petitioner.

Mr. Amaninder Preet, Advocate for the respondents.

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**HARPREET SINGH BRAR, J (Oral):**

**CM-3882-CWP-2020**

This is an application under Order 6 Rule 17 CPC read with Section 151 CPC for amendment in the writ petition including the head note and prayer clause to challenge the order dated 03.07.2008 (Annexure P-1) by which petitioner has been denied the benefit of arrears on retrospective promotion.

In view of the grounds mentioned in the application, the same is allowed, as prayed for, subject to all just exceptions. Amended writ petition filed along with application is taken on record.

Registry is directed to place the same at an appropriate place.

**Main case**

1. 1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a suitable writ,

primarily in the nature of certiorari, for quashing the order dated 03.07.2008 (Annexure P-12) to the extent it denies the arrears of salary for the period the petitioner performed the duties of Senior Accounts Officer prior to his promotion, and also for quashing the order dated 13.04.2015 (Annexure P-28) passed by respondent No.1 in purported compliance with the directions of this Court in order dated 13.01.2015 (Annexure P-27), whereby the claim of the petitioner for arrears of salary and interest on delayed retiral dues was rejected. The petitioner has further prayed for issuance of an appropriate writ, order or direction directing the respondent-Markfed to pay interest @ 18% per annum on the entire amount of retiral and other dues for the period of delayed payment, and to pay arrears of salary for the period he worked as Senior Accounts Officer with effect from 18.09.2000 till the date of his retirement.

2. Learned counsel for the petitioner inter alia contends that the petitioner was appointed in the service of the Federation in August 1972 and retired as Senior Accounts Officer on 31.07.2008 after rendering 36 years of service. He was assigned the duties of Senior Accounts Officer w.e.f. 03.07.1996 and continued to perform the same through various post-ings until his retirement. He was granted notional promotion with retro-spective effect from 18.09.2000, the date on which his junior Shri H.L. Kansal was promoted, but was illegally denied arrears of salary for the pe-riod he actually performed the duties of the higher post. The petitioner re-tired on 31.07.2008, and one day prior to his superannuation, a charge sheet was served upon him on 30.07.2008, from which he was ultimately exonerated only on 31.10.2014 after protracted disciplinary proceedings

that lasted six years, contrary to the Punjab Government Instructions dated 06.12.1988 which mandate expeditious conclusion of inquiries. Due to the pendency of these proceedings, his retiral dues were withheld for nearly six years. Leave encashment was paid on 03.11.2013 and 12.06.2014, arrears of revised pay were released on 07.01.2014, and gratuity was paid on 05.12.2014. As such, the petitioner is entitled to interest @ 18% per annum on the delayed release of his retiral dues in view of the settled legal position, and also to arrears of salary for the period he actually worked as Senior Accounts Officer prior to his promotion.

3. Learned counsel for the petitioner further submits that it is settled law that if an employee is assigned the duties of a higher post and is later promoted, he is entitled to the financial benefits from the date of such assignment, and his promotion cannot be termed merely “notional” where he has actually discharged the duties of the post. Reliance is placed upon the judgments in ***Dayanand Sheokand Vs. State of Haryana and others 2020(2) S.C.T. 364*** and ***Union of India through the D.G. Department of Post and Secretary, Ministry of Communication and IT Vs. Mahesh Chand Rai 2020(1) PLJR 658***, and the judgment of the Hon'ble Supreme Court in ***Secretary-cum-Chief Engineer, Chandigarh Vs. Hari Om Sharma 1998(3) SCT 90***. It is also contended that mere delay in approaching the Court cannot defeat a just claim, as held in ***Keshaw Prasad Vs. State of West Bengal and others 2018(2) Cal. H.C.N. 402***, especially where the petitioner was entangled in protracted departmental proceedings initiated on the eve of his retirement. The litigation policy is not applicable in a writ petition and this Court has to consider the issue of delay in the

facts and circumstances of each case. As such, the claim of the petitioner cannot be rejected by a Court of equity merely on the ground of delay alone.

4. Per contra, learned counsel for the respondents submits that the petitioner was appointed to officiate in the higher post of Senior Accounts Officer purely as a stop-gap arrangement, in his own pay scale, without entitlement to extra remuneration, which he accepted without protest. His right, if any, crystallized much earlier, and the claim for arrears is a belated afterthought raised for the first time in 2015, long after his retirement in 2008, thus suffering from inordinate delay and laches. It is contended that the claim is barred by limitation, as the period for filing a suit has expired. Reliance is placed on an order of this Court in ***Gurdial Singh & Ors v. State Of Punjab & Ors CWP No. 19901 of 2015 dated 18.09.2015*** and the Constitution Bench judgment of the Hon'ble Apex Court in ***State of Madhya Pradesh v. Bhailal Bhai, AIR 1964 SC 1006***, to argue that a writ court should not entertain stale claims. It is further submitted that filing a representation or a subsequent writ petition does not revive a time-barred claim.

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

6. The prayer of the petitioner with regard to financial benefits of the higher post is hopelessly time-barred by delay and laches. The right of the petitioner crystallized on 03.07.2008. However, he has failed to demonstrate any exceptional circumstances which prevented him from approaching the respondents or this Court within a reasonable time. The first writ

petition was filed only in the year 2015, which was disposed of with a direction to decide the representation. It is settled law that disposal of a representation or passing of a speaking order does not revive a stale and time-barred claim. However, as regards the grievance of the petitioner relating to delay in release of retiral benefits, the case is squarely covered by the Full Bench judgment of this Court in ***A.S. Randhawa Supdg. Engineer (Retd.) vs. State of Punjab 1998 (1) SCT 343***. The particulars of delay in releasing the retiral dues have been given by the petitioner in para-11 of the paper book. Admittedly, the petitioner retired on 31.07.2008 and his retiral dues were released in the years 2013 and 2014. Therefore, the petitioner is held entitled to interest @ 6% per annum on the delayed payment of retiral dues from the date they became due till the date of actual payment. The respondents are directed to calculate and release the interest amount within a period of three months from the date of receipt of a certified copy of this order.

7. Accordingly, the writ petition is disposed of.

8. Pending miscellaneous application(s), if any, stand disposed of accordingly.

**(HARPREET SINGH BRAR)**
**JUDGE**

**20.01.2026**
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1. Whether speaking/ reasoned : Yes /No
2. Whether reportable : Yes /No