



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

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CWP-21152-2023 (O&M)
Date of decision: 28.04.2026

Nirmala Devi and another

....Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Thakan, Advocate
for the petitioner.

Mr. Piyush Khanna, Addl. A.G., Haryana.

Mr. Padamkant Dwivedi, Advocate
with Ms. Mansi, 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 mandamus, directing the respondents to consider petitioner No.2, who is son of employee, for compassionate appointment who died a civil death vide order dated 08.02.2021 (Annexure P-4) along with consequential benefits. Further prayer has been made to direct the respondents to release the pension and pensionery benefits including gratuity, leave encashment, GPF Fund, arrears of pension etc, to petitioner No.1 on account of the civil death of her husband namely Azad Singh, as per the Haryana Civil Services Rule along with the interest @ 24% per annum.



2. Learned counsel for the petitioner, *inter alia*, contends that the husband of petitioner No.1 and the father of petitioner No.2 namely Azad Singh was appointed on the post of Helper with respondent No.2/Corporation. Azad Singh, being the sole bread-earner of the family, went missing on 06.12.1994 and a missing report was lodged in the jurisdictional Police Station on 21.11.1995 as discernible from Annexure P-2. After making the earnest efforts to trace him, nothing could be found. Facing great difficulty and hardship, petitioner No.1 by way of application dated 28.08.1995 (Annexure P-3) requested the respondents to grant her *ex gratia* appointment. She kept approaching the respondents but her grievance was not redressed and as such, in the month of January, 2017, the concerned officials of respondent/Corporation advised the petitioners to file a civil suit seeking declaration regarding the death of Azad Singh. Thereafter, a civil suit was filed by the petitioners on 22.02.2018, which was decreed by the learned Additional Civil Judge (Sr. Division) Hisar vide judgment dated 08.02.2021 (Annexure P-4). Thereafter, petitioner No.1 sought the release of pension, pensionary benefits and all other admissible dues, being the widow of Azad Singh and also sought compassionate appointment to petitioner No.2 on the basis of the decree passed by learned Additional Civil Judge (Sr. Division) Hisar as discernible from the representations dated 26.03.2021 (Annexure P-5) and dated 25.05.2023 (Annexure P-6). The petitioner further relies upon the Policy dated 08.05.1995 (Annexure P-7) and the Notification dated



02.08.2019 (Annexure P-8) regarding compassionate appointment and compassionate assistance. Learned counsel for the petitioner relies upon the judgment of Hon'ble Supreme Court in ***Sushma Gosain and others vs Union of India and others, (1989) 4 SCC 468*** and submits that the claim of compassionate appointment has to be decided expeditiously. The respondents neither considered the case of the petitioners for pension and other benefits nor granted the compassionate appointment to petitioner No.2, however, during the pendency of the writ petition, certain amount has been released.

3. *Per contra*, learned counsel for the respondent/Corporation submits that Azad Singh went missing in the year 1994 and a missing report was only lodged in the year 1996 and a civil suit was filed in the year 2018. In the present case, the cause of action arose 07 years, after the date of disappearance of Azad Singh, when the presumption of civil death has been drawn. The petitioners remained indolent and as such, the petitioners are not entitled to any relief on two counts. Firstly, Azad Singh has put only six years of service and as such, he had not achieved the minimum qualifying period of service to earn the pension. Secondly, when Azad Singh did not report for duty after 06.12.1994, disciplinary proceedings were initiated against him and the respondent/Corporation issued an advertisement in the newspaper regarding non-joining of duty by Azad Singh since 07.12.1994 and also called him to join the service within a period of ten days of said publication. Ultimately, a charge-sheet was issued on 10.04.1996 under Rule 21 of Certified Standing



Orders of Haryana Tourism Corporation on account of his absence from duty w.e.f. 07.12.1994, without any information/prior permission of the competent authority. The said charge-sheet was later on culminated into passing of punishment order dated 30.07.1996 (Annexure R-2/6) whereby the competent authority ordered his removal from service. The information regarding removal of Azad Singh was duly published in the leading newspaper on 23.09.1996 and 24.09.1996 as discernible from Annexures R-2/7, R-2/8 and R-2/9, respectively. The punishment order dated 30.07.1996 has not been challenged by the petitioners till date and as such, the present petition is liable to be dismissed. He further submits that it is a trite law that any claim made after an inordinate delay seeking compassionate appointment is liable to be rejected on the ground of delay and laches.

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

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 petitioners has failed to specify any compelling or extenuating circumstance which prevented the petitioners 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)

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. Moreover, 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. Further, 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. In the present case, the petitioners are not entitled to any relief. Firstly, Azad Singh had rendered only about six years of service and had not completed the minimum qualifying service required under the applicable Rules to earn pensionary benefits. Therefore, the claim of the petitioners seeking pension and other retiral dues is not legally sustainable. Secondly, the petitioners have approached this Court after a long and unexplained delay. No plausible explanation has been offered by them for approaching the Court, after such a considerable lapse of time. It is well settled that repeated representations do not extend the limitation or keep a stale cause of action alive. Accordingly, the claim of the petitioners is also hit by the principles of delay and laches.

10. 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 petition stands dismissed.

(HARPREET SINGH BRAR)
JUDGE

28.04.2026
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No