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

CWP-32455-2025

Date of decision: 14.01.2026

BADKA DEVI**....Petitioner**

Versus

STATE OF PUNJAB AND OTHERS**....Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Ms. Gitanjali Chhabra, Advocate with
Ms. Muskan, Advocate
for the petitioner.

Mr. Vikas Sonak, AAG, Punjab.

Mr. Arunjeet Singh Kakkar, Advocate
for respondent No.4.

HARPREET SINGH BRAR, J (Oral):

1. The present civil writ petition has been filed under Articles 226 and 227 of the Constitution of India seeking a writ in the nature of mandamus directing the respondents to release the payment of Family Pension, Pension Arrears, LTC, Medical Allowance and all consequential benefits with interest @ 18% per annum.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner is the widow of Sh. Ram Dass, who was employed as a Mali in the Improvement Trust, Ludhiana and died in harness on 20.07.1991. It is submitted that the petitioner, now 83 years old, is an illiterate senior citizen who was unaware of the procedural formalities for claiming family pension. Despite submitting repeated representations and furnishing all requisite documents, the respondents have failed to sanction and disburse



her family pension and other retiral benefits for over three decades. Learned counsel argues that pension is not a bounty but a right earned by an employee based on past service, and any delay or denial in its disbursement is violative of Articles 14 and 21 of the Constitution. It is further contended that the cause of action for claiming pension is a continuing wrong and gives rise to a recurring cause of action each month the payment is withheld. Reliance is placed on the judgments of the Supreme Court in *D.S. Nakara v. Union of India (1983) 1 SCC 305*.

3. Per contra, learned counsel for the respondents, on the other hand, submits that there has been an inordinate delay and laches on the part of the petitioner in approaching the Court, as the cause of action arose in 1991 upon the death of her husband. It is argued that the petitioner did not apply for family pension for over 31 years and failed to deposit the Contributory Pension Fund along with interest, which is a prerequisite for sanction. The respondents, however, concede in their affidavit that instructions have been issued to the concerned authority for sanction of family pension vide letter dated 23.12.2025. The respondents pray for dismissal of the writ petition.

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

5. The core issue that arises for consideration is whether the petitioner's claim for family pension, delayed by over three decades, is barred by delay and laches?

6. The Hon'ble Apex Court in *Balakrishna S.P. Waghmare v. Shree Dhyaneshwar Maharaj Sansthan [AIR 1959 Supreme Court 798]*, explained the concept of continuing wrong (in the context of Section 23 of



Limitation Act, 1963 corresponding to Section 22 of Limitation Act, 1963) :

"It is the very essence of a continuing wrong that it is an act which creates a continuing source of injury and renders the doer of the act responsible and liable for the continuance of the said injury. If the wrongful act causes an injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. If, however, a wrongful act is of such a character that the injury caused by it itself continues, then the act constitutes a continuing wrong. In this connection, it is necessary to draw a distinction between the injury caused by the wrongful act and what may be described as the effect of the said injury. "

7. A Two Judge Bench of the Hon'ble Supreme Court in ***Shiv Dass v Union of India 2007 (9) SCC 274*** observed that in case of pension cause of action actually continues from month to month.

8. The Supreme Court in ***M.R. Gupta v. Union of India, (1995) 5 SCC 628***, laid down the seminal principle of continuing wrong in service jurisprudence. The Court held that a grievance regarding incorrect pay fixation or non-payment of rightful dues is not a one-time wrong but a continuing wrong, which gives rise to a fresh cause of action each time the employee is paid a salary or pension computed incorrectly.

9. In matters of pension, the cause of action is not extinguished by a single denial but in fact continues from month to month with each non-payment. Grievance of non-payment or incorrect computation of pension is not a one-time injury but a continuing wrong, which generates a fresh cause of action every time the pension falls due and is wrongfully withheld. Thus, pension is not merely a static entitlement but a dynamic, recurring benefit; each monthly default is a renewed breach, perpetuating the injury and reviving the right to seek redress. This characterization



places pension claims beyond the ordinary rigor of delay and laches, treating them as a species of continuing wrong that permits adjudication even after a long lapse, provided the recurring nature of the default is established.

10. The aforesaid ratio was elaborated and applied to pension claims by a Two judge Bench of the Hon'ble Apex Court in ***Union of India v. Tarsem Singh, (2008) 8 SCC 648***, which while speaking through Justice R.V. Raveendran observed that,

*“5. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the re-opening of the issue would affect the settled rights of third parties, then the claim will not be entertained. **For example, if the issue relates to payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties.** But if the claim involved issues relating to seniority or promotion etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. In so far as the consequential relief of recovery of arrears for a past period, the principles relating to recurring/successive wrongs will apply. As a consequence, High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.”*

11. A Two Judge Bench of the Hon'ble Apex Court in ***Rushibhai Jagdishchandra Pathak v Bhavnagar Municipal Corporation CIVIL***



APPEAL NO. 4134 OF 2022, while speaking through Justice Sanjeev Khanna observed that,

“10. At the same time, the law recognises a ‘continuing’ cause of action which may give rise to a ‘recurring’ cause of action as in the case of salary or pension. This Court in *M.R. Gupta v. Union of India and Others*, has held that so long as the employee is in service, a fresh cause of action would arise every month when they are paid their salary on the basis of a wrong computation made contrary to the rules. If the employee’s claim is found to be correct on merits, they would be entitled to be paid according to the properly fixed pay-scale in future and the question of limitation would arise for recovery of the arrears for the past period. The Court held that the arrears should be calculated and paid as long as they have not become time-barred. The entire claim for the past period should not be rejected.”

12. Recently, A Two Judge Bench of the Hon’ble Supreme Court in ***State of Uttar Pradesh v. Dinesh Kumar Sharma, 2025 SCC Online SC 596***, while speaking through Justice Augustine George Masih the Supreme Court reaffirmed this position, observing that pension is not a charity or bounty but a right, and delay in approaching the court does not extinguish entitlement, though arrears may be limited to three years prior to the filing of the writ petition. The Court in ***Dinesh Kumar Sharma (supra)*** observed the following,

“19. This Court in various judgments has clearly held and settled that pension is not a charity, or a bounty, and an employee is entitled to receive his pension. As a matter of principle, belated service-related claims need to be rejected on the ground of delay and laches. However, where the claim relates to a continuing wrong, which does not affect the rights of third parties, equities can be balanced by restricting the arrears for the entitlement which a claimant is held to be eligible for. Normally, the period of three years prior to the date of filing of the Writ Petition in the High Court for restricting the consequential relief has been resorted to regarding disbursement of arrears, which is justified. In the present case also, therefore, the benefit of arrears of pension can be restricted to three years prior to the date of filing of the Writ Petition.”



13. In view of the above the petitioner's claim for family pension is undeniably a continuing wrong. Each month that the pension is not paid, a fresh cause of action arises. The defence of delay and laches raised by the respondents is unsustainable.

14. Accordingly the present petition is allowed. However, the consequential relief of arrears must be restricted. The petitioner would be entitled to arrears of family pension for a period of three years prior to the date of filing of the writ petition along with an interest @ of 6% p.a. till actual realization.

15. Further the respondents are directed to sanction and commence the regular monthly disbursement of family pension and other admissible pensionary benefits to the petitioner within a period of four weeks from the date of receipt of a certified copy of this order.

16. Pending applications, if any, also stand disposed of.

17. A copy of this order be supplied to learned counsel for the parties.

(HARPREET SINGH BRAR)
JUDGE

14.01.2026

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