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

**CWP-35756-2025 (O&M)
Date of decision: 02.12.2025**

Balbir Singh Makkar

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Nitesh Singla, Advocate
for the petitioner.

Mr. Vikas Arora, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. 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 *mandamus* directing the respondents to refix the pension of the petitioner by granting him the benefit of pay scale attached to the post of Superintendent, from the date of his promotion i.e. 18.05.2005 till his retirement on 31.12.2006 and grant all the consequential benefits along with interest @9% per annum and further to direct the respondents to decide the representation dated 15.05.2025 (Annexure P-4) submitted by the petitioner.

2. Learned counsel for the petitioner, *inter alia*, contends that the



petitioner was appointed as Auction Recorder with the respondent-Board on 29.05.1975 and was promoted to the posts of Mandi Supervisor, Accountant and Superintendent on 25.08.1982, 27.04.2005 and 18.05.2005 respectively and on attaining the age of superannuation, he retired on 31.12.2006. During service, the promotion of the petitioner was made to the post of Superintendent in the pay scale of Rs.6400-10640 subject to departmental audit, as discernible from the letter dated 18.05.2005 (Annexure P-2). Further, the petitioner discharged the duties as Superintendent from 18.05.2005 until his retirement on 31.12.2006, however, he was denied the financial benefits of higher post due to failure of the respondents to complete the departmental audit during his service. As such, petitioner's pension was fixed at a lower scale. Thereafter, the petitioner made repeated representations including a detailed one on 15.05.2025 (Annexure P-4), however, the respondents have neither refixed his pension nor passed any speaking order. As such, denial of financial benefits accrued upon promotion of the petitioner, due to respondents' own delay, is arbitrary, unreasonable and violative of Articles 14 & 16 of the Constitution of India.

3. *Per contra*, learned State counsel opposes the prayer made in the present petition on the ground that the petitioner has approached this Court after an inordinate and unexplained delay of about 20 years. The claim of the petitioner, which was accrued in the year 2005 and thereafter, upon his retirement on 31.12.2006, which is sought to be agitated now after such huge delay. As such, the present petition is liable to be dismissed on the ground of



delay and laches, as after retirement of the petitioner, there is no recurring cause of action.

OBSERVATION and ANALYSIS

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

5. Learned counsel for the petitioner concedes that the claim of the petitioner arose in the years 2005/2006. However, he could not provide any satisfactory reason to justify the delay in approaching this Court.

6. From perusal of the record, it transpires that the petitioner was promoted as Superintendent on 18.05.2005 and he served till the date of his retirement i.e. 31.12.2006. Further, the representation (Annexure P-4) was filed only on 15.05.2025, which would not revive the old and time-barred claim of the petitioner, as once the limitation period has expired, the right to seek a remedy through the Courts is extinguished.

7. 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, facts of the matter at hand indicate otherwise. Learned counsel for the petitioner has failed to specify any compelling or extenuating circumstance, which prevented him 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)

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 reasoned enough to dismiss a petition, as indolent litigants ought not to be encouraged by writ Courts.

9. In *State of Uttaranchal Vs. 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 issue(s) 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. Further, 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 Vs. 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 direction of a Court to consider the 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 of the Hon'ble Supreme Court in ***M.R. Gupta Vs. Union of India, (1995) 5 SCC 628*** and has been reaffirmed by a Full Bench decision of this Court in ***Saroj Kumari Vs. 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 Vs. 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. He made repeated representations, while would not keep the issue(s) alive and even no plausible explanation has been offered by learned counsel for the petitioner for the delay in filing the present petition.

13. In view of the above discussion, 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 with no order as to costs.

14. The pending miscellaneous application(s), if any, shall stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

02.12.2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No