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Thereafter, the Special Leave Petition filed by the State of Haryana was initially allowed and converted into Civil Appeal No.8661 of 2009 which was decided on 08.12.2015 (Annexure P-5). Further, the initial Chief Secretary, Government of Haryana Department of Finance addressed the letter on 28.03.2017 (Annexure P-7) to all the Heads of the Department in the State of Haryana and has asked them to re-fix the pay of all the employees of their departments who were petitioners in CWP No.16084-1997, CWP No.2757 of 1998 and CWP No.4518 of 2000. The claim of the petitioners is covered by all the aforementioned decisions as well as the letter (Annexure P-7). The petitioners submitted a detailed legal notice on 08.05.2018. The respondents without considering the claim of the petitioners in the light of the judgments relied upon by the petitioners, rejected their claim on 27.06.2018 (Annexure P-8) in a mechanical manner without assigning any reason. Immediately thereafter, the petitioners filed the instant writ petition on 31.08.2018, as such, the respondents have rejected their claim which is contrary to the settled law and also in violation of Articles 14 and 16 of the Constitution of India. He further submits that similarly situated employees who were approached this Court in the year 2018 were granted benefit on 31.10.2024 by this Court in CWP No.17121 of 2018 titled as 'Mahesh Chander and others Vs. State of Haryana and others' decided on 23.10.2024.

3. Per contra, the learned State counsel as well as counsel for respondents No.2 & 3 submit that the claim of the petitioners crystallised firstly in the year 1992 when the instructions (Annexure P-1) were issued and thereafter, due to the act and conduct of the respondents, certain similarly situated employees filed a writ petition in the year 1997 and in the year 2000 as



discernible from Annexure P-4 decided on 27.07.2000 & 11.08.2003, respectively. The SLP was dismissed way back on 08.12.2015. Further, the reliance of the petitioners on the letter dated 28.03.2017 (Annexure P-7) is wholly misplaced as a letter only was confined to the petitioners in the aforementioned writ petitions. The claim of the petitioners cannot be considered in view of the principle of delay and laches. Any representation or decision on the legal notice will not revive their claim which crystallised in the year 1972 and thereafter, at the time when similarly situated employees approached this Court in the year 1997. The petitioners are fence sitters and have only filed this writ petition in the year 2018 which is barred by the principle of delay and laches.

4. 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 them 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)

5. 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.

6. 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.

7. 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.

8. 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)

9. In the present case, the petitioners have 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 petitioners for the delay in filing the present petition.



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10. 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

11.09.2025

Neha

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