

2025:PHHC:134052



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

**CWP-28582-2025**

**Date of Decision:-24.09.2025**

Ex. Constable Harchand Singh ...Petitioner

Versus

State of Punjab and others ... Respondents

**CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT**

Present : Mr. Kunal Choksi, Advocate  
for the petitioner.

Mr. Amarpreet Singh Bains, AAG, Punjab.

**N.S.SHEKHAWAT, J.**

1. The petitioner, who had retired from the post of Veterinary Inspector on 31.08.2006 in the respondent-department, has invoked the extra ordinary jurisdiction of this Court for issuance of directions to the respondents to extend the retirement age from 58 to 60 years of the petitioner, being a disabled employee, in view of the policy dated 19.11.2017 (Annexure P-6) issued by the Government of Punjab as well as the provisions of Section 33 of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995. A further prayer has been made to issue a writ in the nature of *mandamus* directing the respondents to release and pay all consequential arrears, including pension, commutation of

pension, gratuity, leave encashment etc., alongwith interest @ 18% per annum to the petitioner.

2. Learned counsel for the petitioner contends that the petitioner had joined BSF as a Constable on 01.10.1968 and had performed his duties with sincerity and dedication. While clearing the mines in enemy area on 10.07.1972, the petitioner sustained a mine blast injury on his left foot. The petitioner was shifted to Military Hospital, Srinagar and, thereafter, to Military Hospital Pathankot. He was also referred to Command Hospital Pune and his disability was assessed 40% and the injury of the petitioner was declared as "Battle Causality". The petitioner was discharged on 25.02.1974 under Section 12 of the BSF Act, 1968 and as per his discharge certificate (Annexure P-2), it has been mentioned that the petitioner had been retired on medical grounds, as recommended by BSF Medical Board. After being invalidated out of service, w.e.f., 05.02.1974, the petitioner was appointed as a clerk in the respondent-department and ultimately, the petitioner retired from the post of Veterinary Inspector on 31.08.2006 after completing 28 years in service. In fact, the petitioner retired as Veterinary Inspector on attaining the age of superannuation, i.e., 58 years. However, the petitioner was declared as 40% disabled and being a "Battle Causality", he was entitled to the benefit of extension of 02 years. Learned counsel submits that the Government of Punjab had issued a Policy No. 17/20/2010-2PP2/132 dated 19.11.2014, whereby, the retirement age for such disabled

employees was extended from 58 years to 60 years and such instructions were issued in conformity with the provisions of Section 33 of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation Act, 1995). However, the petitioner had retired on 31.08.2006 and since the petitioner came to know about the policy dated 19.11.2014, the petitioner started raising his grievance with the office of the respondent-department. The petitioner repeatedly requested them to grant the benefit of Policy (Annexure P-6) to him but no action was taken by the respondents. Ultimately, the petitioner also sent a representation dated 01.11.2017 to the respondents and also submitted a reminder dated 01.11.2017 (Annexure P-8) but nobody paid any heed to his repeated representations. Again on 24.08.2021, the petitioner submitted another representation (Annexure P-10), but the respondents did not bother to reply to even a single representation submitted by the present petitioner.

3. I have heard the learned counsel for the petitioner and perused the record carefully.

4. In the present case, admittedly, after his discharge from the BSE, the petitioner was appointed on the post of clerk in the respondent-department. The petitioner was promoted and ultimately retired from the post of Veterinary Inspector on 31.08.2006, on attaining the age of superannuation, i.e., 58 years. The main grievance raised by the petitioner is that the petitioner was declared as

40% disabled and was a case of “Battle Causality”, the retirement age of the petitioner was to be extended from 58 years to 60 years in view of the Policy Dated 19.11.2014 (Annexure P-6), which was issued in terms of the provisions of Section 33 of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation Act, 1995). However, the petitioner had retired on 31.08.2006 and he came to know about the Policy dated 19.11.2014 (Annexure P-6) in the year 2017. Even, the petitioner submitted various representations dated 01.11.2017 (Annexure P-7), dated 01.11.2017 (Annexure P-8) and dated 24.08.2021 (Annexure P-10) to the respondents but no reply was sent by the respondents. Now, after a period of about 19 years of his retirement, the petitioner has claimed that the retirement age of the petitioner should be extended from 58 to 60 years and by taking that benefit into consideration, he should be granted his enhanced retiral benefits alongwith interest. However, this petition filed after several years cannot be entertained.

5. The issue regarding dismissal of a petition on the ground of delay and laches, where there is no explanation of delay, came up for consideration before Hon’ble the Supreme Court in the matter of *Mrinmoy Maity Vs. Chhanda Koley and others, 2024 SCC Online SC 551* and Hon’ble the Supreme Court has held that a person who sleeps over his rights for considerable period, he should not be granted the extraordinary relief by the writ courts. Hon’ble the Supreme Court in the said matter has held as follows:-

*“9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and latches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or latches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.*

*10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straight jacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court*

*depends upon the facts that it has to travel or the terrain in which the facts have travelled.*

*11. For filling of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court.”*

6. Still further, a co-ordinate Bench of this Court in **CWP No.5965 of 2011 tilted as ‘Sandeep Kharab Vs. State of Haryana and others** has also held that the writ jurisdiction cannot be invoked at the will and convenience of the litigant. Anyone who claims rights must be vigilant and he must enforce his rights within reasonable time.

7. In ***Eastern Coalfields Ltd. v. Dugal Kumar (2008) 14 SCC 295, Supreme Court*** has considered scope of interference in case of delay and laches and has observed as under:

*“24. As to delay and laches on the part of the writ petitioner, there is substance in the argument of learned counsel for the appellant Company. It is well settled that under Article 226 of the Constitution, the power of a High Court to issue an appropriate writ, order or direction is discretionary. One of the grounds to refuse relief by a writ court is that the petitioner is guilty of delay and laches. It is imperative, where the petitioner invokes extraordinary remedy under Article 226 of the Constitution, that he should come to the court at the earliest reasonably possible opportunity. Inordinate delay in making the motion for a writ is indeed an adequate ground for refusing to exercise discretion in favour of the applicant.”*

9. In ***Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu (2014) 4 SCC 108***, Supreme Court has ruled:

*‘16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances*

*inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant—a litigant who has forgotten the basic norms, namely, ‘procrastination is the greatest thief of time’ and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.’*

10. In view of the above referred judgments and considering the inordinate delay on the part of the petitioner in invoking the extraordinary writ jurisdiction of this Court, the present petition deserves to be dismissed.

11. Dismissed.

24.09.2025

amit rana

(N.S.SHEKHAWAT)

JUDGE

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