



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

214

CWP-1257-2018 (O&M)
Date of decision: 05.05.2026

Vinod Gupta

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. B.K. Bagri, Advocate
for the petitioner.

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

Mr. Piyush Bansal, Advocate
for respondent No.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 *certiorari*, for setting-aside the order dated 16.11.2017 (Annexure P-11) vide which the relief for grant of ACP scales as per provision of Rule 8 of ACP Rules, 2008 has been declined. Further a writ of *mandamus* has been sought, directing the respondents to grant 1st ACP scale 15600-39000+6000 Grady Pay on completion of 05 years of service as Municipal Engineer w.e.f. 01.09.2009 and 2nd ACP scale on completion of 11 years of service as Municipal Engineer w.e.f. 01.02.2013 in the pay scale of 15600-39000+7600 Grade Pay admissible under the Haryana Civil Services (Assured Carrier Progression) Rules, 2008



(Annexure P-6) and the Instructions dated 19.08.2009 (Annexure P-7) duly adopted by the respondents vide memo No.1/13/2012-1C-2 dated 05.05.2016 (Annexure P-8). Further prayer has been made to direct the respondents to revise the pension and pensionary benefits of the petitioner by allowing him 1st ACP scale w.e.f. 01.09.2009 and 2nd ACP scale w.e.f. 01.02.2013 and release the difference between due and drawn pensionary benefits along with interest @ 18% per annum.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner became eligible for 1st ACP increment on completion of 05 years of service as Municipal Engineer w.e.f. 01.09.2009 and 2nd ACP increment on completion of 11 years of service as Municipal Engineer w.e.f. 01.02.2013. Further, the petitioner approached this Court by filing **CWP-1884-2017**, titled as ***Vinod Gupta vs State of Haryana and others***, which was disposed of on **02.02.2017** with a direction to respondent No.2 therein to decide the representation dated 11.05.2016 filed by the petitioner, in accordance with the rules and Instructions dated 19.08.2009 and 05.05.2016. In purported compliance, the order dated 16.11.2017 (Annexure P-11) has been passed by the respondents whereby the relief for grant of ACP scales as per the provision of Rule 8 of ACP Rules, 2008 has been rejected. He further submits that a perusal of the impugned order indicates that the petitioner has been denied the ACP scales on the ground that he does not possess the requisite qualification for promotion to the next higher post, which is contrary to the law laid by the Hon'ble Supreme Court in ***Amresh***



Kumar Sinha and others vs. State of Bihar and others, 2024 (1) SLR 199. He further contends that the Division Bench of this Court has already settled the controversy involved in the present petition in LPA-1865-2015 titled as ***State of Haryana and others vs. Parmanand and others.*** Furthermore, the Division Bench of this Court, while relying upon the judgment rendered by the Hon'ble Supreme Court in ***Amresh Kumar Sinha's case (supra)***, wherein the issue of grant of ACP was considered, decided LPA-2377-2024 titled as ***The Haryana Power Generation Corporation Ltd. and another vs. Ram Lal***, on 01.05.2025. Lastly, he submits that it is well settled law that ACP scale or time-bound promotional scale are not akin to promotion and solely on the ground of not possessing the qualification for promotion, the benefit of ACP cannot be denied.

3. *Per contra*, learned State counsel as well as learned counsel for respondent No.3 submits that as per the petitioner's own pleadings, he became entitled to 1st ACP scale in the year 2009 and for 2nd ACP scale in the year 2013. The petitioner stood retired on 31.05.2015 and thereafter, for the first time, he agitated his claim by filing CWP-1884-2017, which was decided by this Court on 02.02.2017. As such, the claim made by the petitioner in the present petition suffers from the vice of delay and laches and he cannot revive a dead claim. Further, the recurring cause of action regarding revision of pay is available to the petitioner while he approached this Court by filing **CWP-1884-2017**.



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 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 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. 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. 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 petitioner has approached this Court after an inordinate and unexplained delay. As noticed above, the claim relates to benefits which had allegedly accrued much earlier, yet no satisfactory or plausible explanation has been furnished by the petitioner for not agitating the same within a reasonable time. Although it has been contended that the matter involves a recurring cause of action relating to pay fixation and pensionary benefits, the said plea cannot be accepted in the facts of the present case as the dispute pertains to denial of ACP benefits which had attained finality long back and was not challenged within time. The principle of recurring cause of action applies in cases of continuing wrong during service, such as ongoing incorrect fixation of pay, but does not extend to revive a stale claim after long lapse of



time and after retirement. Mere submission of repeated representations, therefore, neither extends limitation nor gives rise to a fresh cause of action so as to overcome the bar of delay and laches.

10. Moreover, the petitioner has not laid any challenge to the statutory Rules governing grant of ACP benefits, under which his claim is stated to arise. In the absence of any challenge to the relevant statutory provisions, no relief can be granted to the petitioner in view of the law laid down by the Division Bench of this Court in ***Dhani Ram Chaudhary vs. State of Haryana and another***, 2005(1) SCT 571.

11. 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

05.05.2026

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No