

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.6943 of 2024

Date of Decision: 26.11.2025

Surender Mohan

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the Petitioner: Mr. M.L. Sharma and Ms. Meghna Kashava,
Advocates.

For the respondents: Mr. Rajan Kahol & Mr. Vishal Panwar,
Additional Advocates General and Mr. Ravi
Chauhan & Mr. Anish Banshtu, Deputy
Advocates General, for the respondent-State.

Sandeep Sharma, J. *(Oral)*

By way of instant petition, petitioner has prayed for
following main reliefs:

“To issue of a writ of mandamus or any other appropriate writ,
order or direction directing the respondents to pay salary of the
late wife of the petitioner Smt. Darshna Devi from 1.1.1996 to
31.08.2001 on the basis of the revised pay scales revised
w.e.f.01.01.1996 and leave encashment and gratuity on the
basis of 1996 revision with interest @12% per annum on the
aforesaid dues till payment thereof or for any other appropriate
writ, order or direction in the facts and circumstances of the
case.”

2. Precisely, the facts of the case as emerge from the record
and pleadings adduced on record by the respective parties, are that
wife of the petitioner joined her services in the Himachal Pradesh State

Social Welfare Board (in short "Board") as Gram Sevika in the year 1964. After having rendered service for more than 37 years, she superannuated on 31.08.2001.

3. Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by Mr. M.L. Sharma, learned counsel for the petitioner is that late wife of petitioner has been not paid arrears of revised pay scales w.e.f. 1.1.1996. Besides above, she has also not been paid leave encashment and gratuity in terms of 1996 revision.

4. During proceedings of the case, Mr. Sharma, invited attention of this court to judgment passed by the Hon'ble Apex Court in **CWP(T) No. 12225 of 2008**, titled as **Meera Kumari Thakur and Ors. v. State of Himachal Pradesh and Ors.**, alongwith connected matter, to contend that in similar and facts and circumstances, direction was issued to the respondents to consider the case of the petitioner in that case in light of notification dated 13.6.1989 issued by the Government of Himachal Pradesh, whereby respondent was directed to release the pay scale of Rs. 950-1800. He submitted that aforesaid judgment has attained finality upto the Hon'ble Apex Court and as such, is required to be implemented in the case of the petitioner being similarly situate to the petitioner in afore case. He further submitted that on the basis of judgment rendered in **Kumari Meera Thakur's** case (supra), benefit is also extended to **Mukesh**

Kumari pursuant to decision dated 26.5.2015, rendered by coordinate Bench of this Court in CWP No. 9033 of 2014-D. Though respondents filed review petition against the aforesaid judgment, but same was also dismissed vide judgment dated 5.10.2023, as a result thereof, judgments, as taken note herein above, have attained finality.

5. Since Himachal Pradesh State Social Welfare Board has become defunct and employees of the same have been transferred to the Director, Women and Child Development, vide order dated 21.3.2025, respondent No. 4-Himachal Pradesh State Social Welfare Board was substituted by **Director, Women and Child Development**.

6. Pursuant to notices issued in the instant proceedings, respondents No.1 to 3 have filed reply under the signature of Director, Women and Child Development, Himachal Pradesh, wherein factum with regard to employment of late wife of petitioner, as detailed herein above, has not been disputed, but an attempt has been made to refute the claim of the petitioner that petitioner is an employee of Himachal Pradesh State Social welfare Board, therefore, pay scale, leave encashment and gratuity as applicable to the employees of State Government are not automatically applicable to the petitioner. Besides above, it has been further averred in the reply that Government only releases Grant-in-Aid to the Board and therefore it has no role, whatsoever, in granting pay-scale and retiral benefits to it.

7. Though factum with regard to passing of the judgments in cases, as detailed herein above, has not been disputed, but it has been stated that same are not applicable to the present case. At this stage, it is apt to take note that Board has become defunct and services of the employees working therein including wife of petitioner were merged in the Directorate of Women and Child Development. Vide notification dated 5.1.2024, rights and liabilities of the Board have been vested in the Directorate of Women and Child Development and as such, respondents are not permitted to claim that they are not liable to pay arrears, if any, to the petitioner on account of Pay Revisions of 1996 and 2006 as have been otherwise calculated by the Erstwhile Board vide communication dated 27.7.2023. Since it is not in dispute that pay scale of Rs. 950-1800/- initially granted to the wife of petitioner at the time of her appointment to the post of Balsevika was revised to Rs. 3120-5160 w.e.f. 1.1.1996 and thereafter, it was again revised to 5160-20200/- w.e.f. 1.1.2006, coupled with the fact that similarly situate persons, as detailed herein above, have been already granted benefit as have been claimed in the instant petition, prayer made by the petitioner deserves to be allowed.

8. Though at this stage, Mr. Vishal Panwar, learned Additional Advocate General, vehemently argued that otherwise also claim put forth is barred by delay and laches because petitioner has approached this Court after an inordinate delay of eight years,

however such submission of Mr. Panwar, deserves outright rejection in view of the law laid down by the Division Bench of this Court in case titled **Vikram Singh and Ors. v. Himachal Road Transport Corporation and Ors., Latest HLJ 2023 (HP) (2) 1469**, wherein it has been held that relief, if based on discrimination leading to violation of Article 14 of the Constitution of India cannot be denied on the ground of delay and laches. Para 23 of the afore judgment reads as under:

“ 23. In so far as the plea of limitation/delay and laches is concerned, the same is also liable to be rejected. As has already been stated supra, the plea of petitioners is based on discrimination which is violative of Article 14 of the Constitution of India. In this regard, it would be appropriate to refer to the decision of the Hon’ble Supreme Court in K. Thimmappa and others vs. Chairman, Central Board of Directors, State Bank of India and another, 2001 (2) SCC 259, wherein, it has been categorically laid down that if there is an infraction of Article 14 of the Constitution of India then petition cannot be dismissed on the ground of delay and laches.”

9. Reliance is also placed upon the judgment passed by the Hon’ble Apex Court in **K. Thimmappa v. Chairman, Central Board of Directors, SBI, (2001) 2 SCC 259**. Relevant paras of the aforesaid judgment read as under:

“8. Mr Rao, the learned Senior Counsel appearing for the petitioners, on the other hand, vehemently urged that if the treatment meted out to the petitioners is found to be discriminatory, and as such, violates Article 14 of the

Constitution, then the Court will not throw away the petitions merely on the ground of laches. In support of the contention, reliance was placed on the Constitution Bench decision of this Court in the case of *Ramchandra Shankar Deodhar v. State of Maharashtra* [(1974) 1 SCC 317 : 1974 SCC (L&S) 137 : (1974) 2 SCR 216] . In the said case, this Court had observed: (SCC p. 327, para 10)

“Moreover, it may be noticed that the claim for enforcement of the fundamental right of equal opportunity under Article 16 is itself a fundamental right guaranteed under Article 32 and this Court which has been assigned the role of a sentinel on the *qui vive* for protection of the fundamental rights cannot easily allow itself to be persuaded to refuse relief solely on the jejune ground of laches, delay or the like.”

Mr Rao also relied upon the observation of this Court in the case of *B. Prabhakar Rao v. State of A.P.* [1985 Supp SCC 432 : 1986 SCC (L&S) 49 : 1985 Supp (2) SCR 573] wherein Chinnappa Reddy, J., speaking for the Court observed thus: (SCC p. 462, para 20)

“[T]he burden of establishing the reasonableness of a classification and its nexus with the object of the legislation is on the State. Though no calamitous consequences were mentioned in any of the counter-affidavits, one of the submissions strenuously urged before us by the learned Advocate General of Andhra Pradesh and the several other counsel who followed him was the oft-repeated and now familiar argument of ‘administrative chaos’. It was said that there would be considerable chaos in the administration if those who had already retired are now directed to be reinducted into service.”

A passage from the judgment of Lord Denning in *Bradbury v. London Borough of Enfield* [(1967) 3 All ER 434]

was also pressed into service by Mr P.P. Rao, which it is worthwhile to quote hereunder:

“It has been suggested by the Chief Education Officer that, if an injunction is granted, chaos will supervene. All the arrangements have been made for the next term, the teachers appointed to the new comprehensive schools, the pupils allotted their places, and so forth. It would be next to impossible, he says, to reverse all these arrangements without complete chaos and damage to teachers, pupils and the public. I must say this: if a local authority does not fulfil the requirements of the law, this Court will see that it does fulfil them. It will not listen readily to suggestions of ‘chaos’. The Department of Education and the Council are subject to the rule of law and must comply with it, just like everyone else. Even if chaos should result, still the law must be obeyed; but I do not think that chaos will result. The evidence convinces me that the ‘chaos’ is much overstated.”

9. On consideration of the aforesaid legal position, though, we are inclined to agree with Mr P.P. Rao that these cases should not be thrown out on the ground of laches alone, inasmuch as the placement made on 1-10-1979 was assailed in the year 1988 at the earliest and 1998 at the latest, yet the same may not be brushed aside, particularly, when we have not been able to find out any infraction of any fundamental right of these petitioners, guaranteed under the Constitution.”

10. In the aforesaid judgment, Hon’ble Apex Court has held that claim for enforcement of fundamental right of equal opportunity under Articles 14 and 16 of the Constitution of India, cannot be permitted to be defeated on the ground of delay and laches. Since in the case at hand, it is not in dispute that relief, as prayed for in the

instant petition, already stands granted to the similarly situate persons coupled with the fact that SLP filed by respondent-State against the judgment passed by this Court in Mukesh Kumari's case (supra) has been dismissed, wife of petitioner being similarly situate to Mukesh Kumari is very much entitled to pay-scale granted to Mukesh Kumari. If it is so, rightful claim of the petitioner, which has accrued in terms of judgment rendered by this Court cannot be permitted to be defeated on the ground of delay and laches.

11. Consequently, in view of the above, present petition is allowed and respondents are directed to grant the revised pay scale Rs. 3120-5160 w.e.f. 1.1.1996 to the late wife of petitioner within eight weeks, failing which, petitioner shall be entitled to payment of interest from the due date. In the aforesaid terms, present petition is disposed of alongwith pending applications, if any.

November 26, 2025
(shankar)

(Sandeep Sharma),
Judge