NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1517 of 2021

Vishnu Prasad Dilli S/o Shri Heeraman Das Dilli, Aged About 55 Years R/o Village Khapri, Gram Panchayat Kurra, Janpad Panchayat Kurud, District Dhamtari Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Panchayat And Rural Development, Mahanadi Bhawan, Mantralaya Atal Nagar, New Raipur, District Raipur Chhattisgarh
2. Collector, Gariyaband, District Gariyaband Chhattisgarh
3. Chief Executive Officer, Zila Panchayat Gariyaband, District Gariyaband Chhattisgarh
4. Chief Executive Officer/ Program Officer, Manrega Janpad Panchayat Chhura District Gariyaband Chhattisgarh

---- Respondents

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For Petitioner : Mr. Bharat lal Sahu, Advocate
For State : Mr. Shreshtha Gupta, PL

Hon'ble Shri Justice P. Sam Koshy
Order on Board

26/03/2021

1. The challenge in the present writ petition is to the order of removal from service dated 08.11.2011.
2. Vide the said order the petitioner was removed from service and removal from service was not questioned by the petitioner before any higher authority in the department or for that matter any court of law at any point of time except for the occasional representation which the petitioner has made.

3. Given the fact that writ petition is now being filed after a period of more than a decade, this Court is of the firm view that writ petition suffers from delay and latches.

4. So far as the delay and latches are concerned, the law in this regard is by now well settled by a series of decisions of the Hon'ble Supreme Court. The question of delay and laches came to be considered recently by the Supreme Court in case of "***State of Uttaranchal and Another v. Shiv Charan Singh Bhandari and Others",*** reported in ***2013 (12) SCC 179*** in which the court has declined to exercise extraordinary jurisdiction in case the petitioner invokes jurisdiction of Court with inordinate delay, and held as under :

> ***"In State of T.N. v. Seshachalam [8], this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus: -***
>
> ***...filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or 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 would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant."***

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5. Likewise, in the case of "***Uttaranchal Forest Development Corpn. And another v. Jabar Singh and others"*** reported in ***(2007) 2 SCC 112***, it was observed as under:

> ***"43. The termination order was made in the year 1995 and the writ petitions were admittedly filed in the year 2005 after a delay of 10 years. The High Court, in our opinion, was not justified in entertaining the writ petition on the ground that the petition has been filed after a delay of 10 years and that the writ petitions should have been dismissed by the High Court on the ground of laches."***

6. Further, in the case of "***New Delhi Municipal Council v. Pan Singh and others"*** reported in ***(2007) 9 SCC 278***, the Supreme Court reiterating the principles relating to interference in cases where the petitioner approached the Court with unexplained delay, held as under:

> ***"16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction. (See Govt. of W.B. v. Tarun K. Roy, U.P. Jal Nigam v. Jaswant Singh and Karnataka Power Corpn. Ltd. v. K. Thangappan.)"***

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7. In the case of "***P. S. Sadasivaswamy v. State of Tamil Nadu"*** reported in ***(1975) 1 SCC 152***, it has been held as under:-

> ***"It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner's petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant's petition as well as the appeal.***"

8. Very recently in the matter of "***Chennai Metropolitan Water Supply and Sewarage Board and Others v. T.T. Murali Babu"*** reported in ***2014 (4) SCC 108***, the Supreme Court has clearly held that the delay may have impact on others' ripened rights and may unnecessarily drag others into litigation, and expressed their opinion as under-

> ***"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 scrutinize 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 doesbring in hazard and causes injury to the lis.***
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> ***In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may***

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> ***unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons – who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."***

9. For the aforesaid reasons and the judicial pronouncements rendered to in the preceding paragraphs, the writ petition stands rejected on the ground of delay itself.

10. With the aforesaid observations, Writ Petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit

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