

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
WA No.66 of 2023

Smt. Lila Malakar

..... Appellant(s)

V E R S U S

The State of Tripura and others

.....Respondent(s)

For Appellant(s) : Mr. P. Roy Barman, Sr. Advocate,
Ms. A. Debbarma, Advocate.

For Respondent(s) : Mr. Kohinoor N Bhattacharya, G.A.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA

_O_R_D_E_R_

12.12.2023

Heard Mr. P. Roy Barman, learned senior counsel appearing for the appellant and Mr. Kohinoor N Bhattacharya, learned Government Advocate appearing for the State.

[2] The prayer for regularization by the petitioner in terms of the scheme of 2008-2009 has been declined by the learned Writ Court on the ground that the writ petition is absolutely barred by the doctrine of delay and laches. The relevant factual matrix as borne out from the writ records and also taken note of the impugned judgment indicates that the petitioner was engaged as a casual worker in the year 1998. A scheme for regularization was framed in the year 2008 in terms of the judgment rendered by the Apex Court in case of *Secretary, State of Karnataka and others versus Uma Devi (3) and others, (2006) 4 SCC 1*. Petitioner made representation for her regularization first in the year 2012 and thereafter as late as 24.08.2020 (Annexure-13). Petitioner's case was also recommended on 14.09.2017 and thereafter on 30.10.2019 by

the Zonal Development Officer, North Zone, TTAADC, Machmara, Unakoti to the Director, Information & Cultural Affairs, Government of Tripura, Agartala, Tripura(West) and to the Executive Officer (Admn.), TTAADC, Khumulwng, Tripura (West) (Annexures 10 & 12). Petitioner was compelled to approach this Court after the respondents failed to act both on her representation and recommendations made by the officials of TTAADC. It also came to fore during the writ proceedings that the scheme for regularization was abolished in the year 2018. The State has also pointed out that the minimum educational qualification prescribed for filling up of a Group-D post is Class-X pass and there is no post for a person who has not passed Class-X. Petitioner was only Class-VIII pass.

[3] Taking into consideration all these factors, the learned Writ Court dismissed the writ petition holding *inter alia* as under :

“7. I have considered the submissions of learned counsel appearing for the parties. I find force in the submission of learned GA that the instant writ petition is absolutely barred by the doctrine of delay and laches. It is the duty of the employee or citizens to agitate his/her grievance within a reasonable period of time and that reasonable period of time should be 3(three) years. The petitioner in the instant writ petition is found all along negligent. Being her right for regularization was matured in the year 2008, but not regularized till 2018, she lost her right to agitate her grievance at such belated stage.

8. More so, at this stage, the scheme for regularization of irregularly appointed employees has been repealed since 2018. After such repeal, the petitioner has filed the instant writ petition in the year 2022, i.e., after a lapse of 4(four) years.

In view of this, according to me, the claim of the petitioner has become stale and in the result, I find no merit in the instant writ petition as it is absolutely barred by the doctrine of delay and laches. However, the respondents may consider her representation taking into account the fact that she has been serving the State for the last 25 years as a Group-D employee.”

[4] Mr. P. Roy Barman, learned senior counsel for the appellant submits that delay and laches should not be treated to defeat the legitimate grievance of the petitioner since she has been serving the respondents for the last 25 years. The appellant was all along diligent in pursuing her representation with the hope that the respondents would themselves take a decision on her regularization since recommendations have been made by the Zonal Development Officer, North Zone, TTAADC as late as 14.09.2017 and 30.10.2019 respectively. Therefore, in order to do substantial justice, the impugned judgment may be set aside and respondents be directed to regularize the services of the petitioner.

[5] Mr. Kohinoor N Bhattacharya, learned Government Advocate has opposed the prayer and reiterated the grounds taken before the Writ Court. It is also pointed out that Writ of Mandamus or direction at this stage after abolition of the scheme in 2018 would lead to opening of the pandora's box in matters which are stale. Petitioner also did not fulfill the eligibility criteria of Class-X pass. As such, no regularization can be made in teeth of the extant rules.

[6] On consideration of rival submissions of learned counsel for the parties and after going through the relevant pleadings and annexures of the writ records and on perusal of the impugned judgment, we are also of the considered view that the findings of the learned Writ Court do not suffer from any infirmities warranting interference at the appellate stage. Petitioner sat over the matter for almost 14 years since the regularization scheme was framed in the year 2008 before approaching the Writ Court in the year 2022

when the scheme itself was abolished in the year 2018. Mere filing of representation does not arrest the march of time and revive a stale cause of action. Moreover, mere recommendations by the subordinate authorities do not create a cause of action until a decision is taken by the competent authority. The one-time measure devised by the Hon'ble Supreme Court in case of *Uma Devi* (supra) cannot continue to open up a window of relief for litigants who sit back and wait at the periphery when other diligent persons approach the Court within reasonable time for redressal of their grievances. Reference is also made to the recent judgment rendered by this Court in WA No.112 of 2022 on the issue of regularization.

[7] In such circumstances, we do not find any error in the impugned judgment. Accordingly, the instant appeal is dismissed. Pending application(s), if any, also stands disposed of.

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ

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