

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 21/2024

Sri Keshab Chakraborty

----Petitioner(s)

Versus

The Secretary-cum-Commissioner, Department of Forest and 4 others

----Respondent(s)

For Petitioner(s) : Mr. DC Roy, Advocate

For Respondent(s) : Mr. KN Bhattacharyya, GA

Ms. R. Chakraborty, Advocate

HON'BLE MR. JUSTICE ARINDAM LODH

Order

27/02/2024

Heard Mr. DC Roy, learned counsel for the petitioner. Also heard Mr. KN Bhattacharyya, learned GA appearing for the respondents-State.

By means of filing the instant writ petition, the petitioner has prayed for the following reliefs:

"Under the circumstances stated above, it is most humbly and respectfully prayed before your Lordship would be graciously pleased to:-

a) Admit this petition;

b) Issue notice upon the respondents;

c) Call for the relevant records from the custody of the respondents;

d) After hearing the parties be pleased to direct the respondents to promote the petitioner with retrospective effect in the post of Assistant Accounts Officer or any other equivalent post."

Before I advert into the merits of the writ petition, it is pertinent to mention that prior to filing of the instant writ petition, the petitioner had filed another writ petition which was registered as Civil Rule No. 45 of 1998 praying reliefs to issue writ of mandamus directing the respondents to promote him to the post of Assistant Accounts Officer/Marketing Officer in the office of the Chairman, Tripura Forest Development Plantation Corporation Limited, after regularization of his service.

While disposing of the above Civil Rule, the learned Single Judge of the then Gauhati High Court on 29.05.2003 had passed by the following directions:-

"11. With the above observations, the writ petition stands closed. As the petitioner is waiting in expectation for long, the respondents would actively consider his case and do the needful in terms of the above observations and directions as expeditiously as possible and in any case not later than three months from today."

Now, coming to the subject matter of the instant writ petition. I find that the petitioner has prayed for the same reliefs, as were claimed, in the earlier round of litigation, stated here-in-above.

While hearing the present writ petition, at admission stage, Mr. Roy, learned counsel appearing on behalf of the petitioner has submitted that the directions passed by this court and extracted here-in-above has not been implemented by the respondents till today. Mr. Roy, learned counsel has further submitted that in the 64th Board Meeting, the matter of regularization of the service of the petitioner was taken up, which submission has been averred in paragraph 8 of the present writ petition, which is extracted here-in-below, for convenience, in extenso:

"8. That, your humble petitioner's name was considered for regularization of his pay scale in the 64th meeting of the Board of Directors dated 15.09.93 vide Agenda No. 4 and this was approved in the Board meeting but subsequently Sri Faizur Rahman, the Hon'ble Minister who has been holding the post of Chairman of the Board of Directors personally disagree with the decision of the Board of Directors and he expressed desire *"that a proposal may be initiated to create a post of Marketing Officer for Master of business administration Trainee working on fixed pay and to place the matter in the next Board's meeting for review."*

Mr. Roy, learned counsel for the petitioner has urged that this decision of the Chairman of the Board of Directors is highly illegal, improper, unjust and unwarranted and is liable to be quashed, and the service of the petitioner has to be regularized with all consequential benefits including promotion to the post of Accounts Officer/ any other equivalent posts.

Having heard learned counsel appearing on behalf of the parties, in my opinion, the instant writ petition badly suffers from delay and laches. The cause of action for filing the instant writ petition arose in the year 1993 when the Chairman disapproved or disagreed the decision of the Board of Directors. The present writ petition cannot be entertained on other grounds also. The petitioner was first appointed as Management Trainee under the respondents. There is nothing on record to show that the post of Management Trainee is a sanctioned post. The 64th Board meeting was held for consideration of regularization of the service of the petitioner or for regularization of the pay scale of the petitioner.

I find that the statements made in paragraph 8 of the instant writ petition are contradictory itself because at one stage the petitioner has stated that 64th Board Meeting was held for consideration of regularization of his pay scale, but later on it is stated that the said Board Meeting was held for consideration of regularization of his service.

A query has been made to the learned counsel appearing for the petitioner as regards the feeder post of Assistant Accounts Officer. In reply, learned counsel appearing on behalf of the petitioner could not indicate the name of the feeder post. I also do not find any such statement made in the writ petition indicating

the name of the feeder post. Furthermore, it is also transpired that the service of the petitioner has not been regularized in the post against which he was appointed. Unless and until the appointment of the petitioner is not regularized with the creation of the post, he is not entitled to claim further promotion.

I have considered that the then Gauhati High Court had disposed of the writ petition vide judgment and order dated 29.05.2003 with the above direction to actively consider the case of the petitioner. Mr. Roy, learned counsel has submitted that in pursuance of the said order, the petitioner had submitted so many representations to the department concerned for implementation of the directions passed by the court, but, till today the same has not been disposed of.

What I have already observed earlier that the instant writ petition is badly barred by the principle of delay and laches. The order was passed in the year 2003 and the petitioner had preferred to sleep for a long time and suddenly he woke up from slumber. If the petitioner is not conscious about his rights, then, this court cannot help him. Moreover, *promotion is not a matter of right and it is a right to be reconsidered*. Another interesting feature is that already the post to which the petitioner seeks promotion has already been settled. The settled proposition of law is that *the settled position cannot be unsettled*.

In the light of above discussion, the instant writ petition is found devoid of any merit. Accordingly, dismissed.

JUDGE