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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2456 OF 2014

WITH

IPA NO.60 OF 2016

Dipakkumar Girdharlal Doshi

...Petitioner

Versus

National Textile Corp. Limited

And Anr.

...Respondents

WITH

WRIT PETITION NO.2756 OF 2014

Dipakkumar Girdharlal Doshi

...Petitioner

Versus

National Textile Corp. Limited

And Anr.

...Respondents

WITH

WRIT PETITION NO.2757 OF 2014

Dipakkumar Girdharlal Doshi

...Petitioner

Versus

National Textile Corp. Limited

And Anr.

...Respondents

WITH

WRIT PETITION NO.2758 OF 2014

Dipakkumar Girdharlal Doshi

...Petitioner

Versus

National Textile Corp. Limited

And Anr.

...Respondents

WITH

WRIT PETITION NO.3056 OF 2014

Dipakkumar Girdharlal Doshi

...Petitioner

Versus

National Textile Corp. Limited

And Anr.

...Respondents

Mr. Tejas Dande a/w. Mr. Bharat Gadhavi a/w. Ms. Trushna Shah, Mr. Parth Talekar a/w. Mr. Sarvesh Deshpande a/w. Ms. Mansi Dande a/w. Ms. Tanishka Chavan a/w. Mr. Satyajeet Salve and Mr. Aniket Shitole, for Petitioner in all WPs.

Mr. Dipakkumar Girdharlal Dhoshi, Petitioner in person present.

Ms. Meena H. Doshi, for Respondents in all Wps.

**CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.**

DATE: 17th February 2026

P.C.

1. These are five Petitions filed by the Petitioner seeking separate reliefs pertaining to his retirement age, provident fund, and other retiral dues. The Petitions have been filed under Article 226 of the Constitution of India. Since all the reliefs are sought by the same Petitioner against the Respondent – National Textile Corporation Limited (NTC) we deem it appropriate, for the sake of convenience, to dispose of the aforesaid Petitions by this common order.

2. The reliefs/prayers sought in each of the Petitions are reproduced hereinbelow:

WP 2456 of 2014

A) That this Hon'ble Court be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, order or direction calling for records and proceedings from the Respondents regarding petitioner's retirement case and after going through the legality, validity and / or propriety thereof the same may be held to be illegal and / or bad in law and / or unconstitutional and quash and set aside the notice of retirement dated 02.12.2013 as well as letter dated 29.05.2014 thereby superannuating / retiring Petitioner as

(i) it is issued on letter head of non existing company viz. National Textile Corporation Limited (Western Region) (a Government of India Undertaking), and

(ii) it is issued on the basis of non existence of rule viz. NTC Ltd. (WR)

Employees Recruitment and Promotion Rule and are exhibited as Exhibit- "I-1"/ Exhibit- "I-2" and Exhibit- "O-1"/ Exhibit- "O-2"

B) That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction directing the Respondent No. 1 and Respondent No. 2 to treat the Petitioner on duty, on and from 01.06.2014 onwards till reinstatement with full salary and applicable allowances and other benefits related to post and accordingly Petitioner be paid salary and other monetary and other benefits from 01.06.2014 onwards till he completes the age of superannuation under 'BIR Act' notwithstanding retirement memo dated 02.12.2013 as well as relieving letter dated 29.05.2014 which are issued under non existence of company and non existence of rule and which are exhibited as Exhibit- "I-1"/ Exhibit- "I-2" and Exhibit- "O-1"/ Exhibit- "O-2"

C) That pending the hearing and final disposal of the Petition, the Petitioner prays that the effect and implementation of notice of retirement dated 02.12.2013 as well as relieving letter dated 29.05.2014 which are issued under non existence of company and non existence of rule and are exhibited as Exhibit- "I-1"/ Exhibit- "I-2" and Exhibit- "O-1"/ Exhibit- "O-2" be stayed and the Respondent be directed to reinstate the Petitioner with continuity of service and with full salary and other related allowances etc. and allow petitioner to report for duty immediately and also to pay salary as usual in accordance with law on due date to Petitioner from 01.06.2014 onwards with 24 % compounded interest to be calculated from month wise payable due date.

D) Hon'ble Court may please decide whether Petitioner is required to refund / return Rs.10,00,000/- which is being received by Petitioner towards Gratuity

E) Honble Court direct Respondent No. 2 to produce original documents related to (i)Existence of National Textile Corporation Limited (Western Redion) (a Government of India Undertaking)' and (ii) existence/ authenticity of NTC Ltd. (WR) Employees Recruitment and Promotion Rules'

F) Ad-interim/interim reliefs in terms of prayer clause "C", "D' & "E" hereinabove.

G) The delay, if any, in filing this petition may please be condoned, H) Cost of litigation and compensation as applicable under prevailing law etc.

I) Such other and further reliefs as deemed fit and proper by this Hon'ble Court on the facts and circumstances of the case;

WP 2756 of 2014

A) That this Hon'ble Court may please issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, order or direction calling for original records and proceedings from the Respondents regarding payment made to Petitioner (i) for May 1990 by Dye Works and for June 1990 by the then NTC (MN) Ltd. And recovery of Provident Fund Contribution from salary for said months and after going through the legality, validity and / or priority under prevailing law, PF Act, please decide that the last salary drawn at Dye Works for May 1990 is protected or reduced and PF contribution is protected or reduced in salary for June 1990 and document dated 06.06.2013 is legally valid document or fake document and action of Respondents are legal and / or permissible under prevailing applicable law, PF Act and if not permissible then appropriate proceedings against the Respondents including Respondent No. 2 under prevailing applicable law may please be initiated,

B) That this Hon'ble Court may please issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction directing the 2nd Respondent to submit report considering (i) records of NTC about salary and PF contribution for the month of May and June 1990 and (ii) records of Respondent No. 2 considering representation of employees and Petitioner including notice dated 11.01.2013 of Petitioner in the matter within time to be granted by this Hon'ble Court for deciding this Petition and also copy of report be given to Petitioner,

C) That pending the hearing and final disposal of the Petition, the Petitioner prays that Respondent No. 5 and Respondent No. 6 be ordered to deposit arrears of salary considering (i) protection of section 12 of PF Act considering salary for May 1990 and paid by Dye Works, (ii) effecting promotion from 01.04.1990 considering last salary drawn at Dye Works for May 1990 (iii) effecting agreement dated 03.05.1990 entered between India United Mills Dye Works with Rashtriya Mill Mazdoor Sangh and subsequent further promotion till retirement with 24% compounded interest to be calculated on date due and payable from respective month till actual payment and Provident Fund contribution considering salary due and payable from 01.04.1990 till retirement at appropriate rates under PF Act be deposited in PF Account of Petitioner,

D) That calls for original records of Respondent No.2, Respondent No. 5 and Respondent No. 6 and related to the present Petition for deciding the same on facts and merits of the case

E) That calls for original records of Respondent No.6 to authenticate the contents of document dated 06.06.2013 that salary for April 1990 is drawn and paid by the then NTC (MN) Ltd. at basic pay of Rs. 1640/-.

F) Ad-interim / interim reliefs in terms of prayer clause "B", "C", "D" and "E", hereinabove.

G)The delay, if any, in filing this petition may please be condoned

H)cost of the Petition.

I)Such other and further reliefs as deemed fit and proper by this Hon'ble Court on the facts and circumstances of the case.

WP 2757 of 2014

A)That this Hon'ble Court be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, order or direction calling for records from the Respondents regarding payment of arrears of salary on account of merger of 50 % dearness allowance as dearness pay and recovery of Provident Fund Contribution from payment of arrears of salary for (i) regular employee including Petitioner and (ii) ex-employee considering statement dated 20.12.2011 and after going through the legality, validity and / or priority under prevailing law, PF Act thereof, the recovery of PF from (i) arrears and (ii) salary from 01.04.2004 be considered to be illegal and / or unlawful and or bad in law in respect of regular employee including Petitioner and to initiate appropriate proceedings under prevailing law, PF Act against the Respondents including Respondent No. 2 for different rate of recovery of PF Contribution in respect of regular employee including Petitioner as compared to ex- employee w.e.f. 01.04.2004,

B)That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction directing the Respondent No. 2 to deposit additional 2% employees provident fund contribution + 2% voluntary provident fund contribution considering Petitioner request and 2% matching contribution being employers share, for the period 01.04.2004 to 31.03.2011 with further compounded interest @ 24% on said contribution till date due and payable and to deposit the entire amount in account of Petitioner which is maintained by Respondent No. 2 under information to this Hon'ble Court and to Petitioner.

C)That pending the hearing and final disposal of the Petition, the Petitioner prays that Respondent No. 2 be ordered to investigate in the matter and to submit its report within period considered by this Hon'ble Court, about less recovery of provident fund contribution @ 2% for the period 01.04.2004 to 31.03.2011 and to initiate appropriate proceeding if it is an offence under prevailing law, PF Act, on part of Respondents including PF commissioner of Respondent No. 2,

D) That to call for original records Respondent No. 2, Respondent No. 5 and Respondent No. 6 related to the present Petition for deciding the same on facts and merits of the case,

E)Ad-interim/interim reliefs in terms of prayer clause "B", "C" and "D", hereinabove,

F) The delay, if any, in filing this petition may please be condoned,

G) cost of the Petition, and

H) Such other and further reliefs as deemed fit and proper by this Hon'ble Court on the facts and circumstances of the case.

WP 2758 of 2014

A) That this Hon'ble Court be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, order or direction calling for records and proceedings from the Respondents regarding payment of first installment of arrears of salary from 01.01.2007 and non recovery of Provident Fund Contribution from payment of arrears of salary and after going through the legality, validity and / or priority under prevailing law, PF Act, the action to be considered as illegal and / or bad in law and to initiate appropriate proceedings against the Respondents including Respondent No. 2

B) That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction directing the Respondent No. 2 to deposit total PF contribution amounting to Rs. 39,600/- as on 15th October 2011 with further interest @ 24 % on said amount till date of payment and to deposit the entire amount in account of Petitioner which is maintained by Respondent No. 2 under intimation to this Hon'ble Court and Petitioner,

C) That pending the hearing and final disposal of the Petition, the Petitioner prays that Respondent No. 2 be order to investigate in the matter and to submit its report within time granted by this Court, about non recovery of provident fund contribution from first installment of arrears of Rs. 1,10,000/- paid on 28.09.2011 and whether it is offence under prevailing law, PF Act on part of Respondents and action / steps taken by Respondent No. 2 till date,

D) That call for original records of Respondent No. 2, Respondent No. 5 and Respondent No. 6 which relates to the present Petition for deciding the same on facts and merits of the case

E) Ad-interim/interim reliefs in terms of prayer clause "B", "C" and "D", hereinabove.

F) The delay, if any, in filing this petition may please be condoned

G) cost of the Petition.

H) Such other and further relief as deemed fit and proper by this Hon'ble Court on the facts and merits of the case.

WP 3056 of 2014

A) That this Hon'ble Court be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other writ, order, direction taking in to consideration the facts and merits of the present petition by calling for the records from the Respondents and after going through the legality, validity and / or propriety thereof may be decided and quashed and set aside the office orders dated (i) 04.10.2005, (ii) 12.07.2006, (iii) 26.09.2008 and (iv) letter dated 30.06.2010 which are issued under IDA scales of pay and exhibited as Exhibit "K", Exhibit "O", Exhibit "Q-1" and Exhibit "Q-2" respectively and by awarding consequential relief with payment of arrears of salary considering revised Sixth Pay CDA scales of pay, grade pay, bunching of increments etc. with all consequential benefits along with due promotion, increments, pay revision, arrears etc. with effect from 01.01.2006 onwards till date of retirement @ 24% compounded interest, to be calculated from date due for payment till actual date of payment to the Petitioner in terms of DPE - OM dated 12.06.1990, OM dated 14.10.2008 (Exhibit "R") and other such OM, decision, directives, guidelines, clarifications etc. issued by DPE from time to time for compliance of Judgment and Order dated 03.05.1990 passed by Hon'ble Supreme Court of India.

B) That pending hearing and final disposal of the Petition, the Petitioner prays that the effect and implementation of office orders dated (i) 04.10.2005, (ii) 12.07.2006, (iii) 26.09.2008 and (iv) letter dated 30.06.2010 which are issued under IDA scales of pay and exhibited as Exhibit "K", Exhibit "O", Exhibit "Q-1" and Exhibit "Q-2" respectively be amended and the Respondent No. 5 and Respondent No. 6 be directed to deposit with this Hon'ble Court (i) the payment of arrears of salary at revised sixth pay commission CDA scale of pay, grade pay, bunching of increments etc. with all consequential benefits along with due promotion, increments, pay revision, etc. to the Petitioner with effect from 01.01.2006 onwards till date of retirement considering Sixth Pay Commission CDA scales of pay with 24% compounded interest to be calculated from date due and payable till actual date of payment, (ii) liberty be granted to the Petitioner to withdraw the amount deposited by Respondent No. 5 and Respondent No. 6 as prayed at (i) above (iii) to further deposit amount every month as per sixth pay commission DA scale of pay till retirement considering Writ Petition (Lodging) No. 2679 of 2014 / Writ Petition No. 2456 of 2014 filed in this Hon'ble Court and (iv) liberty be granted to the Petitioner to withdraw the amount deposited by Respondent No. 5 and Respondent No. 6 after illegal, unlawful retirement of Petitioner i. e 31.05.2014 and further amount deposited regularly every month considering Writ Petition (Lodging) No. 2679 of 2014 / Writ Petition No. 2456 of 2014 filed in this Hon'ble Court.

C) The Respondents No. 5 and Respondent No. 6 who have not only violated DPE - OM dated 12.06.1990 (Exhibit "B"), OM dated 14.10.2008 (Exhibit "R"), OM dated 10.08.2009 (Exhibit "G") and other such OMs, decision, directives, guidelines, clarifications etc. issued by DPE from time to time for compliance of Judgment and Order dated 03.05.1990 (Exhibit "C") passed by Hon'ble Supreme Court of India. but also mis-interpreted OM dated 12.06.1990 (Exhibit "B"), OM dated 14.10.2008 (Exhibit "R"), OM

dated 10.08.2009 (Exhibit "G") and other such OM, decision, directives, guidelines, clarifications etc. issued by DPE from time to time for compliance of Judgment and Order dated 03.05.1990 (Exhibit "C") as per their wish, whims and thereby played with the lives of employees and particularly with the life of Petitioner since Board of Directors and all executives. officials of Respondents are not required to pay any penny towards cost of litigation etc. from their own pocket nor they are looser on any count but the Petitioner has to pay from his own pocket though he is not at fault and petitioner is deprived from earning his lawful revised salary w.e.f. 01.01.2006 onwards, therefore all Respondents be punished under prevailing applicable law by initiating appropriate proceedings,

D) Compensation under prevailing law for victimization, discrimination, harassment, singled out and depriving the Petitioner by willfully not paying lawful revised salary w.e.f. 01.01.2006 onwards under Sixth Pay CDA scales of pay and all other related consequential applicable benefits there under including grade pay, bunching of increments etc. and thereby financial hardships faced by Petitioner

E) (i) Willfully non payment of lawful revised salary to Petitioner alone w.e.f. 01.01.2006 onwards till retirement, (ii) compelled Petitioner to accept 'unconditionally' illegal office order dated 26.09.2008 (Exhibit "Q-1") and letter dated 30.06.2010 (Exhibit "Q-2"), (iii) compelled Petitioner to earn regularly salary under pre-revised IDA scales of pay instead of revised CDA scales of pay w.e.f. 01.01.2006 onwards and (iv) violation of Fundamental Rule - 27 reducing two increments of pay and allowances thereon for life time till retirement and (v) violation of PF Act by reducing contribution on (a) said two increments and (b) applicable allowances on two increments, is an offence on part of all the Respondents from the point of view of Petitioner under prevailing applicable Law, PF Act etc. and therefore, all Respondents be punished in accordance with and under provisions of prevailing applicable law by initiating appropriate proceeding,

F) Since petition relates to salary and applicable allowances thereon which are intentionally and willfully not paid to Petitioner though entitled requested and demanded time and again by all possible way and also bread and butter for surviving, therefore hearing be expedited and petition be decided at the admission stage only,

G) Respondent No. 5 and Respondent No. 6 be directed to produce following original records relates to present petition about

(i) Option in writing submitted by Petitioner from switching over from CDA scales of pay to IDA scales of pay in terms of liberty granted under DPE OM dated 12.06.1990 (Exhibit "B")

(ii) Through proper channel Original representation dated 28.01.2013 submitted by Petitioner and documents confirming action taken by Respondent No. 6 on original representation dated 28.01.2013

(iii) Respondent No. 5 to provide copy of so called policy guidelines referred in Respondent No. 6 letter dated 11.09.2012,

(iv) Rule, policy under which letter dated 26.11.2015 was issued by Respondent No. 6 communicating thereby decision "..... we wish to continue with your dispute. "

(iv) Arrears calculation sheets duly audited by qualified chartered accountant and related documents, office order about pay fixation in revised 6 pay CDA and 2nd IDA pay scales, approval thereof by Respondent No. 5 about (a) 50% arrears of salary paid in September 2011, (b) balance 50% arrears of salary paid and (c) thereafter one increment/ increments approval of Respondent No. 5, office order issued by Respondent No. 6, calculation sheets of 29 employees including Petitioner duly audited alongwith related documents in respect of 29 employees including Petitioner.

H) Ad-interim reliefs in terms of prayer clause "B", "C", "D", hereinabove.

I) Such other and further reliefs as deemed fit and proper by this Hon'ble Court on the facts, merits and circumstances of the case;

J) The delay, if any, in filing this petition be condoned as submitted and prayed herein above.

And

I) Award cost of petition.

3. Briefly stated, the relevant facts necessary for the disposal of the aforesaid Petitions are as follows:

(i) The Petitioner was working as Deputy Manager (Legal) with NTC and superannuated/retired with effect from 31st May 2014, after office hours, upon attaining the age of 58 years, vide letter dated 29th May 2014.

(ii) Respondent No. 1 is the NTC, which is wholly owned by the Government of India (a Government undertaking) and registered under the Companies Act, 1956, on or before 21st December 1974. The Parliament enacted the Sick Textile Undertakings (Nationalisation) Act, 1974 (hereinafter referred to as the "1974 Act"), whereby approximately 103 sick textile undertakings were nationalised, and the right, title, and interest of the former owners absolutely vested in the Union of

India (UOI). The UOI subsequently transferred these sick textile undertakings to NTC. Further, NTC, along with its two subsidiaries situated in Mumbai, is governed by various labour legislations, including the Bombay Industrial Relations Act, 1946 (hereinafter referred to as the “BIR Act”).

(iii) Section 14 of the 1974 Act governs the employment of the Petitioner, and accordingly, the Petitioner continued to serve NTC under the provisions of the 1974 Act. The Petitioner held different positions, including Senior Clerk and Chief Clerk, until he was transferred to the Head Office of NTC at Ballard Estate vide transfer order dated 3rd August 1989.

4. The Petitioner joined the services of India United Mills Ltd. No. 6-Dye Works as a Temporary Clerk on 6th December 1974, and his designation was subsequently confirmed as Junior Clerk under the BIR Act. It is the Petitioner’s contention that as per Clause 11A of the Standing Orders for Clerks, the age of superannuation was fixed at 60 years, and if the employee was found to be efficient, the same could be extended up to 63 years.

5. The Petitioner contends that prior to his transfer to the Head Office, an internal note dated 31st January 1989 was circulated by the Secretary at NTC concerning the “age of superannuation for staff covered by the BIR Act at the time of their appointment.” The Petitioner further contends that this internal note, being a policy decision, established that employees appointed under the BIR Act were to retire at the age of 60 years. Consequently, the Petitioner contends that his age of retirement should have been fixed at 60 years.

6. The Petitioner further contends that after his transfer to the Ballard Estate office of NTC, his salary was fixed in accordance with the Central Dearness Allowance (CDA) scales.

7. On 3rd August 1989, the Petitioner was transferred from India United Mills Limited No. 6 Dye Works to the then Head Office of NTC at Ballard Estate, Mumbai. On 24th May 1990, the Petitioner was designated as Assistant Clerk, and the pay scale applicable to NTC employees was applied to him.

8. Thereafter, the Petitioner made several representations and submitted letters to NTC, requesting to be reverted to his original post governed under the BIR Act. Notwithstanding these representations, the Petitioner over the time continued to receive promotions over time and was ultimately serving as Assistant Legal Officer of NTC at the relevant time.

9. The General Manager (HR) of NTC Mr. E.N. Modak had addressed a letter dated 27th February 2013 to Shri. R.K. Sinha, Director (HR) of NTC, wherein it was recorded that the Petitioner had accepted the terms of his employment under NTC. Relevant paragraphs of the letter dated 27th February 2013 are reproduced below:-

*"Shri R.K. Sinha,
Director (HR)
NTC Ltd,
New Delhi.*

Sub:: Payment of eligible annual increment due from 01-01-2011

Dear Sir,

We are in receipt of IOM No.CMD/3(06)/04 dated 15-02-2013 enclosing there with the copy of MOT letter No 17/1/2013-NTC dated 13-02-2013 along with the application dated 28-01-2013 from Shri D.G Doshi an employee of this office. The copy of the same has been marked to your good

In this regard, our comments are as under:-

The main contention of the application of Shri Doshi is that in pursuance to directions of Hon'ble Supreme Court of India vide its order dated 03-05-1990 and subsequent guidelines from MOT letter dated 01-07-2003 (copy enclosed that the option for switching over from CDA, on voluntary basis would be available to employees in CDA Pattern on prospective basis. The said guidelines conveyed by NTC Ltd New Delhi vide letter dated 07-07-2003.

(Copy enclosed)

Subsequently, NTC Ltd. New Delhi vide letter No.DHR/59/(01)/03 dated 01-08-2003 (copy enclosed) has issued guidelines that where promotion of CDA employees is involved only IDA scale will be allowed.

Shri D.G. Doshi was working as Asstt. Officer (Legal) in legal department of the then NTC (MN) Ltd Mumbai in pre-revised CDA pay scale of Rs. 6500-200-10500. He was promoted w.e.f. 01-07-2005 and placed in corresponding IDA Pay scale of Rs. 8600-2520-14600 in terms of the guidelines received from NTC Ltd. New Delhi vide letter No.DHR/59/(01)/03 dated 01-08-2003.

The said promotion was accepted by him under protest (copy enclosed).

Shri Doshi, since the date of his promotion i.e. 01-07-2005 has been continuously requesting/demanding that he should be promoted from CDA pay scale to CDA pay scale w.e.f. 01-07-2005 as per the above guidelines of Hon'ble Supreme Court of India and MOT, as he has not opted voluntarily to switch over from CDA to IDA, Further, he has also requested to revise his salary from CDA to CDA of 6th CDA pay revision w.e.f. 01-01-2006.

Since, Shri Doshi was in IDA Pay scale (on his promotion w.e.f. 01-07-2005 which was accepted by him under protest) as on 01-01-2007 he was extended the benefit of pay revision of IDA pay scale w.e.f. 01-01-2007. Since the said pay revision of IDA pay scale w.e.f. 01-01-2007 was being accepted by him under protest/conditionally, he is being paid salary in the pre-revised pay scale. The annual increment due on 01-01-2011, 01-01-2012 and 01-01-2013 in pre-revised pay scale has already been released to Shri Doshi.

Subsequent to receipt of letter dated 01-08-2003, as and when CDA

employee has been promoted, they have been placed in IDA pay scale only considering this as a policy except Shri. Doshi no other employee has protested/demanded to be continued in CDA.

This for your kind perusal and necessary advice in the matter please.

This is issued with the approval of the CGM/RH.”

10. On 2nd December 2013, NTC issued an intimation to the Petitioner informing him that he was due to retire on 31st May 2014. The Petitioner responded to the said letter, contending that the age of superannuation had been wrongly fixed by NTC, as his services were governed by the BIR Act, under which the age of superannuation is 60 years.

11. On 26th December 2013, NTC replied to the Petitioner's letter and reiterated their stand with respect to the Petitioner's retirement. Subsequently, on 29th May 2014, NTC issued a superannuation notice to the Petitioner, informing him that he would retire on 30th May 2014, as 31st May 2014 was a holiday.

12. As stated earlier, the Petitioner had joined the services of India United Mills Limited No. 6- Dye Works as a temporary clerk and was subsequently confirmed as Junior Clerk under the BIR Act. As per Clause 11A of the Standing Orders for clerks, the age of superannuation was fixed at 60 years, with the provision that, if found efficient, it could be extended up to 63 years.

13. It is this superannuation notice which the Petitioner seeks to challenge in Writ Petition No. 2456 of 2014, contending that he is governed by the provisions of the BIR Act and not by the Rules applicable to NTC. All the other Petitions primarily concern the Petitioner's employment with NTC, including matters

relating to salary, provident fund contributions, and other retiral benefits. These issues pertain to events dating as far back as 1990. Thus, the causes of action in all the Petitions arose much earlier than the dates on which the Petitions were filed in 2014, and in all cases, after the Petitioner's retirement on 31st May 2014.

14. Affidavits-in-reply have been filed on behalf of NTC in all the aforesaid Petitions. The common submissions and contentions in these replies are that the Petitions suffer from delay and laches, as the causes of action in these Petitions arose much earlier — in 1990, 2004, 2005, 2006, 2008, and 2011 — whereas the Petitions were filed only in 2014. Specifically:

- i. Writ Petition No. 3056 of 2014 and Writ Petition No. 2756 of 2014: Causes of action arose in 1990, 2005, 2006, and 2008.
- ii. Writ Petition No. 2757 of 2014: Cause of action arose in 2004.
- iii. Writ Petition No. 2758 of 2014: Cause of action arose in 2011.

15. The affidavits also address the merits of the Petitioner's contentions. However, since all the Petitions were filed in 2014, long after the relevant causes of action had arisen, the primary question for consideration is that of delay and laches.

16. In Writ Petition No. 3056 of 2014 an affidavit-in-reply on behalf of Respondent Nos. 1, 3, 4, 5, and 6 has been filed by Mr. Prabhashankar Rajai Mishra, working as Assistant Manager (Admin) of NTC (Western Region), Regional Office, wherein a preliminary objection has been raised that the aforesaid petition is misconceived and untenable inasmuch as disputed questions of fact have been raised therein and the Petitioner has an alternative efficacious remedy to file a suit if he is aggrieved in respect of the issues raised in the aforesaid petition. It is

also contended in the aforesaid affidavit that the Petitioner has been filed after superannuation of the Petitioner on 31st May 2014 and the subject-matter of the Petition is the alleged entitlement of the Petitioner to salary and other benefits in the CDA Pattern w.e.f 1st July 2005. It is further contended that the Petitioner himself, post his transfer w.e.f 1st April 1990 from United Mills Limited No. 6 Dye Works to NTC (MN) Ltd. accepted the IDA Pattern and therefore now he cannot claim benefits under the CDA Pattern. The Petitioner continued to receive salary under the IDA Pattern until his superannuation on 31st May 2014. It is further contended that as per the judgement of the Supreme Court of India dated 3rd May 1990 and also the Office Memorandum dated 12th June 1990, an option was required to be given to the employees to shift from the CDA pattern to IDA pattern of pay scales. The Office Memorandum dated 12th June 1990 clearly postulated that all employees on promotion on and after 1st Jan 1989 are required to be put in the IDA payscale. Therefore, the contention of the Respondents is that all these are disputed question of fact and have been raised belatedly for an issue which has arisen in the year 1990 and hence the same cannot now be entertained.

17. In Writ Petition No. 2456 of 2014 also Mr. Prabhashankar Rajai Mishra, has filed an affidavit-in-reply on behalf of Respondent Nos. 1 and 2 and opposed the admission of the aforesaid petition. It is submitted in the said affidavit that the Petitioner has been now in the Employment of NTC and post his transfer from Mill Grade Employees to NTC pay scale, his superannuation age is 58 years and he will be governed by the terms and conditions of service as per the NTC Rules. It is therefore submitted in the affidavit that the Petitioner was well aware of these rules

and once he had accepted the same he would no longer be governed by the Certified Standing Order under the BIR Act and would be governed by the NTC rules and regulations.

18. In Writ Petition No. 2756 of 2014 an affidavit once again of Mr Prabhashankar Rajai Mishra has been filed on behalf of Respondent Nos. 1, 3, 4, 5, and 6, and in that too the contention of the Respondents is that all these are disputed questions of fact and have been raised belatedly for an issue which has arisen in the year 1990 and hence the same cannot now be entertained. Further the Respondents have also submitted that the Petitioner has falsely suggested that there has been a reduction in the Provident Fund contribution upon the transfer of the Petitioner from Mill Grade Employee to NTC pay scale. It was also submitted that there has been no breach of Section 12 of the Employees Provident Fund Act and it is impermissible on the part of the Petitioner to raise this issue with regard to the so called Section 12 Employees Provident Fund Act after a lapse of 24 years. The relevant paragraphs of the affidavit are reproduced below-

(e) I further submit that all allegations raised in the said paragraph with regard to the deduction in the salary of the Petitioner as on 1.4.1990 are false. I repeat and reiterate whatever has been stated hereinabove. I further deny that the Respondent No. 6 has been fully created a concocted document dated 6.6.2013. The office order dated 01-10-1990 issued to the Petitioner is relied upon by the Corporation. Hereto annexed and marked as Exhibit " A " is a true copy of the said Office Order.

(f) I further say that as regards the notice dated 11.1.2013, the Respondent Corporation has replied vide letter dated 12-06-2013 to Shri S.S. Bagul, Enforcement officer EPFO. Hereto annexed and marked as Exhibit "B " is the true copy of the Reply sent by the Respondent No. 6. I deny that there has been any discrimination against the Petitioner. The internal note dated 21.9.1990 in fact shows that this grievances were considered sympathically by the Respondent No. 6 and the Petitioner was thereafter placed in a higher pay scale. The arrears from 1.4.1990 were also paid to the Petitioner based upon the decision taken by the Respondent No.6 to give the

Higher grade. This fact is an admitted position and is denied by the Petitioner.

(g) In reply to paragraph 9, 10 and 11 of the Petition, I deny the allegations made therein. I say that the Judgment of Supreme Court in the Jute Corporation case dated 3.5.1990 and the O.M. dated 12.6.1990 at Exhibit C and D respectively to the Petition have not been correctly interpreted or followed by the Petitioner. I say that with effect from 1.4.1990 ie. even before the Judgment of the Supreme Court of India, the Petitioner was already placed in the CDA pattern of Pay Scales. He continued to be on a CDA pattern of pay scales uptill 31-12-2005. Therefore, the reliance placed on the aforementioned document is misplaced and misconceived. The petitioner was not paid the salary under third CDA pay commission. The petitioner was paid the salary under 4th CDA pay scale w.e.f. 01-04-1990. The petitioner was placed from mill grade to NTC grade w.e.f. 01-04-1990 and not promoted. It is further denied that the Petitioner was demoted as alleged in para 11 of the Petition. I further say that the benefit of agreement dated 3.5.1990 was extended to the petitioner and additional amounts to be paid under the said Agreement were paid to the Petitioner in May 1990. The extract of the muster for the month of May 1990 shows that the said amount was paid to the Petitioner. In respect of the other allegations in the said paragraph, I submit that the said allegations have been refuted by the Respondent No.6. By letter dated 21.1.2015 addressed to the Petitioner, the Respondent No.6 has clarified the position. Repeated grievances made by the Petitioner have been refuted on this count in the past as well. It is submitted that mere repetition of a false allegation do not substantiate the allegations which are known to be false. Hereto annexed and marked as Exhibit " C " is the true copy of the said letter dated 21.1.2015. I deny that there has been any deduction in the PF Account of the Petitioner. Firstly, the Petitioner was placed in a higher pay scale retrospectively from 1.4.1990 as aforesaid. Secondly, the total emoluments were much higher as on 1.4.1990 The gross salary of Petitioner was increased with effect from 1.4.1990. Thirdly, on account of arrears being paid in the higher pay scale, the total pay package was enhanced substantially. The PF contribution therefore could not be set to have been reduced. The reliance placed by the Petitioner on Exhibit G-1, G-2 and H and I is misconceived in as much as the pay slip for the month of June 1990 does not taking into account the subsequent retrospective arrears paid to the Petitioner. The pay slip for the month of October 1990 does not in any way demonstrate the so-called deduction in the PF amount.

(h) All allegations in paragraph 11 at page 15 to 17 are denied in toto. I further deny that there is any violation committed by the Petitioner as regards Section 12 of the PF Act.

(i) In reply to paragraph 12 of the Petition, I deny that the salary under PF Act of the Petitioner was not protected on his absorption in the CDA Pattern of pay scales w.e.f. 1.4.1990.

19. An affidavit-in-reply dated 9th December 2016 of Usha Shode APFC

(Legal), working in Regional Provident Fund Office, Mumbai on behalf of Respondent No. 2 has also been filed supporting the contentions as made by Respondent Nos. 1, 3, 4, 5, and 6. The Petitioner has further filed a rejoinder dated 10th June 2015 denying the averments made by the Respondents in their respective affidavits.

20. A similar affidavit-in-reply has been filed in Writ Petition No. 2757 of 2014 on behalf of Respondent Nos. 1, 3, 4, 5, and 6 and the following preliminary objections have been raised, and the relevant paragraphs of the affidavit are reproduced below-

4. At the outset, I submit that the present Petition is misconceived and untenable on the following grounds which are taken without prejudice to one another:-

(a) It is submitted that the present Petition raises disputed questions of fact and cannot be gone into in a Writ Petition under Article 226 of the Constitution of India. Even if the Respondent No.5 is a government company registered under Section 617 of the Companies Act, 1956.

(b) It is submitted that the Petitioner has an alternate efficacious remedy and is required to file a suit if he is aggrieved in respect of the issues raised in the present Petition. A Writ Petition in this Hon'ble Court is not maintainable.

(c) I say that the subject matter of the present Petition is the alleged nonpayment of PF contribution on the arrears of merger of 50% DA in basic Pay. The arrears of merger of 50% DA in Basic was paid in the year 2008. The P.F. Contribution at the rate 10% has been deducted on the said

21. An affidavit-in-reply dated 11th January 2017 of Usha Shode APFC (Legal), on behalf of Respondent No. 2 has also been filed supporting the contentions as made by Respondent Nos. 1, 3, 4, 5, and 6. The Petitioner has further filed a rejoinder dated 10th June 2015 denying the averments made by the Respondents in their respective affidavits.

22. A similar affidavit-in-reply has also been filed in Writ Petition No. 2758 of 2014 on behalf of Respondent Nos. 1, 3, 4, 5, and 6. The Respondents have raised the following preliminary objections in the affidavit, relevant paragraphs which are reproduced below-

4. At the outset, I submit that the present Petition is misconceived and untenable on the following grounds which are taken without prejudice to one another:-

a. It is submitted that the present Petition raises disputed questions of fact and cannot be gone into in a Writ Petition under Article 226 of the Constitution of India. Even if the Respondent No.5 is a government company registered under Section 617 of the Companies Act, 1956.

b. It is submitted that the Petitioner has an alternate efficacious remedy and is required to file a suit if he is aggrieved in respect of the issues raised in the present Petition. A Writ in this Hon'ble Court is not maintainable.

c. I say that the subject matter of the present Petition is the alleged nonpayment of PF contribution on the first installment of Rs. 1,10,000/- which was mistakenly paid to the Petitioner towards arrears of IDA Pay Revision. In fact, the Petitioner was not entitled to the said amount at all as he had refused to accept the pay revision in the IDA pattern of scales unconditionally when the same was offered to him vide office letter dated 30.6.2010. Since the pay revision itself was not accepted by him, the question of paying any arrears to the Petitioner did not arise. However, the first installment paid to various other IDA Pattern employees was extended to him through oversight.

23. An affidavit in reply dated 29th December 2017 of Usha Shode APFC (Legal), on behalf of Respondent No. 2 has also been filed supporting the contentions as made by Respondent Nos. 1, 3, 4, 5, and 6. The Petitioner has further filed a rejoinder dated 17th June 2015 denying the averments made by the Respondents in their respective affidavits.

24. On a perusal of the affidavits filed by the Respondents it is clear that all the issues raised by the Petitioner are disputed questions of facts and that these petitions suffer from considerable delay and ought not to be entertained and

dismissed solely on the ground of delay and laches. The cause of action in all these petitions has arisen much prior in point of time the reliefs prayed for are post the retirement of the Petitioner.

25. Learned counsel Mr. Tejas Dande appeared on behalf of the Petitioner and learned counsel Ms. Meena H. Doshi appeared on behalf of the Respondents.

26. We have perused the papers and proceedings with the assistance of learned counsels on behalf of the Petitioner and the Respondents and now proceed to decide the aforesaid Petitions filed by the Petitioner.

27. Insofar as the Petitioner's prayer that his age of retirement should have been 60 years instead of 58 years, and consequently the challenge to the superannuation notice issued to him in Writ Petition No. 2456 of 2014, is concerned, we are of the view that this submission deserves to be dismissed at the very threshold. This is for the reason that the Petition has been filed after the Petitioner had already superannuated on 31st May 2014.

28. The Petitioner retired upon attaining superannuation on 31st May 2014. Further, since the Petitioner had been transferred to the employment of NTC pursuant to the 1974 Act, and hence his employment was governed by the provisions thereof. Section 14 of the 1974 Act is relevant and is reproduced below for reference:

“14. Employment of certain employees to continue.—(1) Every person who is a workman within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), and has been, immediately before the appointed day, employed in a sick textile undertaking shall become, on and from the appointed day, an employee of the National Textile Corporation, and shall hold office or service in the National Textile Corporation with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if

the rights in relation to such sick textile undertaking had not been transferred to, and vested in, the National Textile Corporation, and shall continue to do so unless and until his employment in the National Textile Corporation is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the National Textile Corporation.

(2) Every person who is not a workman within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), and who has been, immediately before the appointed day, employed in a sick textile undertaking shall, in so far as such person is employed in connection with the sick textile undertaking which has vested in the National Textile Corporation, become, as from the appointed day, an employee of the National Textile Corporation and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held the same under the sick textile undertaking if it had not vested in the National Textile Corporation and shall continue to do so unless and until his employment in the National Textile Corporation is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the National Textile Corporation: Provided that in respect of any sick textile undertaking the management of which could not be taken over by the Central Government under the Sick Textile Undertakings (Taking Over of Management) Act, 1972 (72 of 1972), by reason of any decree, order or injunction of any court, any agent, director (including a managing or whole-time director, by whatever name called) or manager shall not become an employee of the National Textile Corporation.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, the transfer of the services of any officer or other person employed in a sick textile undertaking to the National Textile Corporation shall not entitle such officer or other employee to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(4) Where, under the terms of any contract of service or otherwise, any person whose services become terminated or whose services become transferred to the National Textile Corporation by reason of the provisions of this Act is entitled to any arrears of salary or wages or any payment for any leave not availed of or other payment, not being payment by way of gratuity or pension, such person may, except to the extent such liability has been taken over by the Central Government under section 5, enforce his claim against the owner of the sick textile undertaking but not against the Central Government or the National Textile Corporation.”

(Emphasis supplied)

29. On a plain reading of Section 14(1) of the 1974 Act, it is clear that every person who has been a workman within the meaning of the Industrial Disputes Act, 1947, and who was employed immediately before the appointed date

in a sick textile undertaking, shall, on and from the appointed day, become an employee of the NTC. Such employee shall hold office or service therein on the same tenure, at the same remuneration, and upon the same terms and conditions, with the same rights and privileges as to pension, gratuity, and other matters, as he would have been entitled to if the rights in relation to the sick textile undertaking had not been transferred to and vested in the NTC, and shall continue to do so unless and until his remuneration or terms and conditions of employment are duly altered by the NTC.

30. It therefore becomes clear that once a workman has been employed in a sick textile undertaking, then he will be governed by the same service conditions even after he is absorbed by NTC, unless his remuneration or terms and conditions of employment are later altered by the NTC. In the facts of the present case, the Petitioner was transferred to NTC, and his employment thereafter was governed under the NTC Recruitment and Promotional Rules (M.N.). Further, the Office Order dated 24th May 1990 (Exhibit C to Petition No. 2456 of 2014) categorically records as follows:

“OFFICE ORDER

Shri D.G.Doshi, Jr.Clerk, Indla United Mills Dyeworks, transferred to Corporate Office is fitted in the NTC Pay Scale of Rs.425-15-500-EB-15-560-20-700 at Basic Pay of Rs,530/- (Rupees Five Hundred Thirty only) per month w.e.f. 1-4-1990 and is designated as Assistant subject to following conditions.

1. While in service of this Corporation, he is Liable for transfer anywhere in India in any post, Shift, Dept. at the discretion of Management and to the Holding Co., viz NIC Lta, New Delhi or any of its Subsidiaries or Mill Units.

2.He shall be governed by the rules and regulations of the Corporation is supersession of earlier Awards/Agreements under BIR Act.

3.He will draw next annual increment on 6-7-1990.”

31. In response to the aforesaid office order dated 24th May 1990, the Petitioner by a representation dated 3rd July 1990 to the NTC raised the grievance pertaining to his age of retirement being reduced to 58 years from 60 years. NTC had thereafter through the Office Order dated 1st October 1990, in response to the representation made by the Petitioner, placed the Petitioner in the revised pay scale of Rs. 1640/-. The Petitioner signed and endorsed the office order dated 1st October 1990 in settlement of his grievances in the representation dated 3rd July 1990 and therefore by his conduct accepted the terms of his employment with NTC. Consequently, once the Petitioner himself had accepted the terms of employment we do not find any merit in the Petitioner's submission that he should have retired at the age of 60 under the BIR Act, instead of at the age of 58 in accordance with the conditions of service of NTC. Section 14(1) of the 1974 Act is very clear, that if terms and conditions of employment are altered by NTC, then the workman is governed by the said terms.

32. Once the Petitioner accepted the office order for employment with NTC, the stand taken by him that his age of retirement should be 60 instead of 58 years becomes untenable and unsustainable. In view thereof, we have no hesitation in holding that the consequent prayers in Writ Petition No. 2456 of 2014 for reinstatement of the Petitioner from 1st June 2014 until the age of superannuation under the BIR Act, and for grant of full salary, applicable allowances, and other mandatory benefits, cannot be entertained.

33. We also note that Writ Petition No. 2456 of 2014 was filed much after the

retirement of the Petitioner on 31st May 2014 and in this view as well, the Petition ought to be dismissed.

34. As regards the other Petitions, we decline to examine the prayers on merits, as all the reliefs sought therein have been claimed after inordinate delay. As noted above, the causes of action in respect of these Petitions arose as early as 1990, and later in 2004, 2005, 2006, 2008, and 2011, whereas all the Petitions have been filed only in 2014. Further, many of the reliefs sought in the Petitions involve disputed questions of fact, for which the appropriate remedy is to file civil suits — which the Petitioner has not availed of.

35. It is therefore our considered view that all the other Writ Petitions, i.e., Writ Petition Nos. 2756 of 2104, 2757 of 2014, 2758 of 2014, and 3056 of 2014, are hopelessly time-barred and suffer from delay and laches.

36. It is well-settled in law that in writ proceedings, a Petitioner cannot sleep over his rights and, after inordinate delay, approach the Court to assert those rights. A Petitioner who approaches the Court belatedly, awakening from such a long delay, cannot ordinarily be granted extraordinary relief by a Writ Court. Delay or laches are a relevant factor to be borne in mind while exercising discretionary powers under Article 226 of the Constitution of India.

37. This Court and the Supreme Court of India have time and again reiterated the aforesaid principles. The Supreme Court, in particular, in a recent decision rendered in *Mrinmoy Maity v. Chhanda Koley and Others*¹ has emphasised the significance of delay and laches in the grant of extraordinary reliefs. The relevant

¹ 2024 INSC 314

paragraphs of *Mrinmoy Maity v. Chhanda Koley and Others* (supra) are reproduced below:-

“9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and laches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.

10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straight jacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.

*11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court. This Court in the case of *Tridip Kumar Dingal and others v. State of W.B and others.*, (2009) 1 SCC 768 has held to the following effect:*

“56. We are unable to uphold the contention. It is no doubt true that there can be no waiver of fundamental right. But while exercising discretionary jurisdiction under Articles 32, 226, 227 or 136 of the

Constitution, this Court takes into account certain factors and one of such considerations is delay and laches on the part of the applicant in approaching a writ court. It is well settled that power to issue a writ is discretionary. One of the grounds for refusing reliefs under Article 32 or 226 of the Constitution is that the petitioner is guilty of delay and laches.

*57. If the petitioner wants to invoke jurisdiction of a writ court, he should come to the Court at the earliest reasonably possible opportunity. Inordinate delay in making the motion for a writ will indeed be a good ground for refusing to exercise such discretionary jurisdiction. The underlying object of this principle is not to encourage agitation of stale claims and exhumate matters which have already been disposed of or settled or where the rights of third parties have accrued in the meantime (vide *State of M.P. v. Bhailal Bhai* [AIR 1964 SC 1006 : (1964) 6 SCR 261] , *Moon Mills Ltd. v. Industrial Court* [AIR 1967 SC 1450] and *Bhoop Singh v. Union of India* [(1992) 3 SCC 136 : (1992) 21 ATC 675 : (1992) 2 SCR 969]). This principle applies even in case of an infringement of fundamental right (vide *Tilokchand Motichand v. H.B. Munshi* [(1969) 1 SCC 110] , *Durga Prashad v. Chief Controller of Imports & Exports* [(1969) 1 SCC 185] and *Rabindranath Bose v. Union of India* [(1970) 1 SCC 84]).*

58. There is no upper limit and there is no lower limit as to when a person can approach a court. The question is one of discretion and has to be decided on the basis of facts before the court depending on and varying from case to case. It will depend upon what the breach of fundamental right and the remedy claimed are and when and how the delay arose.”

(emphasis supplied)

*12. It is apposite to take note of the dicta laid down by this Court in **Karnataka Power Corporation Ltd. and another v. K. Thangappan and another**, (2006) 4 SCC 322 whereunder it has been held that the High Court may refuse to exercise extraordinary jurisdiction if there is negligence or omissions on the part of the applicant to assert his right. It has been further held thereunder:*

*“6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in *Durga Prashad v. Chief Controller of Imports and Exports* [(1969) 1 SCC 185 : AIR 1970 SC 769] . Of course, the discretion has to be exercised judicially and reasonably.*

7. What was stated in this regard by Sir Barnes Peacock in *Lindsay Petroleum Co. v. Prosper Armstrong Hurd* [(1874) 5 PC 221 : 22 WR 492] (PC at p. 239) was approved by this Court in *Moon Mills Ltd. v. M.R. Meher* [AIR 1967 SC 1450] and *Maharashtra SRTC v. Shri Balwant Regular Motor Service* [(1969) 1 SCR 808 : AIR 1969 SC 329]. Sir Barnes had stated: "Now, the doctrine of laches in courts of equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy either because the party has, by his conduct done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitation, the validity of that defence must be tried upon principles substantially equitable. Two circumstances always important in such cases are, the length of the delay and the nature of the acts done during the interval which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as it relates to the remedy."

8. It would be appropriate to note certain decisions of this Court in which this aspect has been dealt with in relation to Article 32 of the Constitution. It is apparent that what has been stated as regards that article would apply, a fortiori, to Article 226. It was observed in *Rabindranath Bose v. Union of India* [(1970) 1 SCC 84 : AIR 1970 SC 470] that no relief can be given to the petitioner who without any reasonable explanation approaches this Court under Article 32 after inordinate delay. It was stated that though Article 32 is itself a guaranteed right, it does not follow from this that it was the intention of the Constitution-makers that this Court should disregard all principles and grant relief in petitions filed after inordinate delay.

9. It was stated in *State of M.P. v. Nandlal Jaiswal* [(1986) 4 SCC 566 : AIR 1987 SC 251] that the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring, in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction."

13. Reiterating the aspect of delay and laches would disentitle the discretionary relief being granted, this Court in the case of **Chennai Metropolitan Water Supply & Sewerage Board and others v. T.T. Murali Babu, (2014) 4 SCC 108** has held:

“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 scrutinise 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 does bring in hazard and causes injury to the lis.”

14. Having regard to the afore-stated principles of law enunciated herein above, when we turn our attention to facts on hand, it would not detain us for too long for accepting the plea of the appellant in affirming the order of the Learned Single Judge and dismissing the writ petition on the ground of delay and laches. We say so for reasons more than one, firstly, it requires to be noticed that the writ petitioner was a rival applicant along with the appellant herein for grant of LPG distributorship and she along with the appellant herein, were found to be eligible and the appellant herein was held to be successful by virtue of draw of lots. This factual aspect would reflect that the writ petitioner was aware of all the developments including that of the allotment of distributorship having been made in favour of the appellant herein way back in 2014, yet did not challenge and only on acceptance of the alternate land offered by the appellant in March, 2017 and permitting him to construct the godown and the showroom. Same was challenged in the year 2017 and thereby the writ petitioner had allowed his right if at all if any to be drifted away or in other words acquiesced in the acts of the Corporation and as such on this short ground itself the appellant has to succeed...”

38. In view of the aforesaid, as Writ Petition Nos. 2756 of 2104, 2757 of 2014, 2758 of 2014, and 3056 of 2014 have been filed belatedly and the Petitioner seeks

to exert rights which have become stale and dead, therefore we are not inclined to entertain these Petitions.

39. Insofar as the issue of pension, which the Petitioner has sought to raise during the course of the hearing of these Petitions, is concerned, we leave it open to the Petitioner to make an appropriate representation to NTC. The same shall be considered expeditiously by NTC, preferably within a period of two months from the date this order is made available to them by the Petitioner.

40. The Writ Petitions are accordingly dismissed in view of the above terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)