

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.A. No. 28 of 2012

Sri Rajat Bhattacharjee,
son of late Sudhir Chandra
Bhattacharjee, resident of M.B. Tilla,
P.O. Arundhutinagar, P.S. West
Agartala, District-West Tripura

..... **Appellant**

- V e r s u s -

- 1. The State of Tripura, Agartala**
(represented by the Chief Secretary
to the Government of Tripura, Home
Department), Civil Secretariat, New
Capital Complex, P.O. Kunjaban,
Agartala, District-West Tripura
- 2. The Director General of Police,**
Government of Tripura, P.O. Agartala,
District- West Tripura
- 3. The Commandant General,**
Government of Tripura, Tripura
Home Guards Organisation, P.O.
Agartala, District-West Tripura,
- 4. The Commandant,**
Tripura Home Guards Organisation,
P.O. Arundhutinagar, Agartala,
District-West Tripura

..... **Respondents**

BEFORE
THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA
THE HON'BLE MR.JUSTICE S. TALAPATRA

For the appellant : Mr. B. Das, Sr. Advocate

For the respondents : Mr. T.D. Majumder, G.A

Date of hearing and delivery : **13.07.2015**
of judgment and order

Whether it is fit for reporting :

Yes	No
	√

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, CJ)

By means of this writ appeal, the original writ petitioner has challenged the judgment dated 28.03.2012 passed by a learned single Judge of this Court, whereby the writ petition filed by the petitioner was dismissed only on the ground that the same was highly belated and hit by the principles of delay and laches.

[2] The undisputed facts are that the petitioner was engaged as a Home Guard in 1976. On 8th May, 2000 the services of the petitioner along with another member of the Home Guard, namely Siraj Mian were terminated by the same order. The petitioner did not challenge the said order. However, Siraj Mian filed W.P (C) No. 396 of 2002. The High Court allowed the writ petition of Siraj Mian and quashed the order of termination dated 08.05.2000 and Siraj Mian was reinstated in service. The State filed Writ Appeal No. 19 of 2004 and after hearing, the said writ appeal was dismissed on 29.04.2010.

[3] It is only after the writ appeal was dismissed that the present petitioner filed a writ petition in the year 2012. He remained silent for 12 years. The learned single Judge came to the conclusion that the petitioner had not given any explanation as to why he kept for so many years and therefore, dismissed the petition. The learned single Judge has relied upon the judgment of the Apex Court in **Ratan Chandra Sammanta & ors. vs. Union of India & Ors.**, reported in **AIR 1993 SC 2276** in this regard. In that case also, a number of employees had been retrenched by an identical order.

Some of them took out legal proceedings, but the petitioner did not. The Apex Court held that since the petitioner had not taken any steps to enforce his claim before the railways except sending vague representations his claim was rightly rejected as being time barred. No materials have been placed before us also to show what written representation, if any, was made to the State. The claim of the petitioner is hit by the principle of delay and laches.

[4] We are not going into the question as to whether the appointment of Home Guard amounts to civil service or whether that is amenable to the writ jurisdiction or not, since we are clearly in agreement with the learned single Judge that the petitioner has lost his remedy to seek the relief in view of lapse of time. We may add that when the petitioner filed this writ appeal, he was already 52 years old and he would be 56 years now and he virtually cannot be reinstated as a Home Guard. We, therefore, find no merit in this writ appeal which is accordingly dismissed.

JUDGE

CHIEF JUSTICE