

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 6316 of 2010**

Smt. Leena Lucas W/o Shri Abdul Jamil Khan, aged about 59 years, resident of New Shanti Nagar, PO Shankar Nagar, Near Anuvrat Apartment, Raipur (CG).

---- Petitioner**Versus**

1. State Of Chhattisgarh through Secretary, Department of Health, DKS Bhawan, Raipur, District Raipur (CG).
2. Director, Health Services, DKS Bhawan, Raipur (CG).

---- Respondents

For Petitioners	Shri Sunil Otwani, Advocate.
For Respondents/State	Shri Rajkumar Jaiswal, Panel Lawyer.

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

01/10/2015

1. Claim of the petitioner to the present writ petition is for considering her case for promotion to the post of Staff Nurse with effect from the year 1996 i.e. the year when her colleagues were considered and promoted to the post of Staff Nurse.
2. Learned counsel for the Petitioner in her petition has admitted the fact that in year 2002 her case were also considered along with other similarly situated persons and promoted to the post of Staff Nurse.
3. A bare perusal of record would show that Petitioner never raised any grievance against the others being promoted in the year 1996. The Petitioner has also failed to show that at any point of time she claimed for her promotion

w.e.f. 1996 when her case along with other similarly situated persons were considered and promoted in the year 2002, and therefore, the writ petition suffers from delay and laches which has not been properly explained by the Petitioner.

4. The question pertaining to delay and laches has already been decided by the Supreme Court in catena of decisions in **P. S. Sadasivaswamy vs. State of Tamil Nadu**¹, **Uttaranchal Forest Development Corpn. And another vs. Jabar Singh and others**², **New Delhi Municipal Council v. Pan Singh and others**³ and **State of Uttaranchal and Another v. Shiv Charan Singh Bhandari and Others**⁴. In all these cases, it has been held that “it is trite law 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.
5. In case of **Bhoop Singh v. Union of India**⁵, the Supreme Court has again held as under:

“8. Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief. Others are then justified in acting on that belief.”

6. The Supreme Court in the case of **Chennai Metropolitan Water Supply and Sewerage Board and Others v. T.T. Murali Babu**⁶, further held that :

“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

1 (1975) 1 SCC 152

2 (2007) 2 SCC 112

3 2007 (9) SCC 278

4 2013 (12) SCC 179

5 (1992) 3 SCC 136

6 2014 (4) SCC 108

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

7. Bearing in mind the principles of law laid down by the Supreme Court in above referred cases with regard to entertainment of petition filed with inordinate delay and laches if the facts of present case are examined, it would appear that the petitioner has filed this petition in the year, 2010 claiming promotion for the cause of action which arose in the year, 1996, and as such there is delay of 14 years in filing the petition and the petitioner has neither explained such inordinate delay nor has filed any document.
8. As a fall out and the consequence of the aforesaid discussion, the petition is held to be devoid of merit and is therefore dismissed. No order as to costs.

Sd/-

(P.Sam Koshy)

JUDGE