

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2475 of 2015**

- Kirtan Lal S/o Likhan Lal (Halba), Aged About 52 years R/o Village Rana Khujji, Post-Sanjari, P.S. Devri, Civil & Revenue District Balod, (Chhattisgarh)

---- Petitioner**Versus**

1. State of Chhattisgarh, Through Secretary, Labour Department, Mahanadi Bhavan, Mantralaya, New Raipur, Raipur, (Chhattisgarh)
2. Assistant Labour Commissioner, Office of The Labour Commissioner, Durg, (Chhattisgarh)
3. Collector, Collectorate Office, Durg District Durg (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Rahul Birtharey, Advocate
For Respondents/State	:	Shri YS Thakur, Dy. AG for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****14/07/2015**

1. Petitioner has preferred this writ petition seeking a direction to the respondents to consider his case for appointment on the Class-IV post in the establishment of Labour Commissioner, Chhattisgarh.
2. It appears, the matter concerning petitioner's appointment was considered in June, 1998, when the Collector, Durg, directed him to appear before the selection committee along with all relevant records/credentials on 26-6-1998, however, appointment order was not issued in favour of the petitioner, for which the Collector, Durg issued communications on

17-3-1999 and in October, 1999. Since thereafter, the petitioner never raised the issue before any authority. In the year 2011 he moved an application before the State Scheduled Caste & Scheduled Tribes Commission, who recommended petitioner's appointment vide its order dated 16-11-2011. The Deputy Labour Commissioner also issued a communication addressed to the Under Secretary, Government of Chhattisgarh, Department of Labour for granting appointment to the petitioner.

3. There is nothing in the record to demonstrate that pursuant to the letter issued by the Collector, Durg, asking the petitioner to appear for interview on 26-6-1998, whether he appeared for the interview and was included in the select list.
4. In course of argument, Shri Birtharey, learned counsel for the petitioner would submit that the respondents may be issued direction to consider petitioner's representation.
5. In the considered opinion of this Court, the writ petition suffers from unexplained and inordinate delay and laches. The petition is absolutely silent as to why the petitioner did not prefer the writ petition or did not represent the matter before any authority between the period 1999 to 2011.
6. The Supreme Court in **Chennai Metropolitan Water Supply and Sewerage Board and Others v. T.T. Murali Babu**¹, after relying on its decision rendered in **State of M.P. v. Nandlal Jaiswal**², held thus at para 15 & 16 :

“15. xxx xxx xxx

¹ (2014) 4 SCC 108

² (1986) 4 SCC 566

XXX XXX XXX

XXX XXX XXX

“24. ... If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction.”

Emphasis was laid on the principle of delay and laches stating that resort to the extraordinary remedy under the writ jurisdiction at a belated stage is likely to cause confusion and public inconvenience and bring in injustice.

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.”.

7. In the matter of **A.P. SRTC and Others Vs. G. Srinivas Reddy and Others**³ and **C. Jacob V. Director of Geology & Mining & Anr.**⁴, it has been held by the Hon'ble Supreme Court that a direction to consider and decide the representation is issued by the High Court in exercise of powers of judicial review. It has also been held that the High Court should not issue directions where unscrupulous petitioners with the connivance of pliable authorities have misused the direction “**to consider**” issued by the Court. Existence of a legal right and the corresponding statutory obligation on the authorities is the pre-condition for exercise of judicial review to issue a direction to consider and decide the representation.

³ (2006) 3 SCC 674

⁴ 2008 AIR SCW 7233

8. It is also to be seen that the petitioner is now aged about 52 years, therefore, he has crossed the maximum age limit for entry into the government service.
9. In view of the above, the writ petition suffers from delay and laches, deserves to be and is hereby dismissed.

Sd/-

Judge

Prashant Kumar Mishra

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