

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.7358 OF 2014

[Sattar Khan s/o Abbas Khan .vs. The State Government of Maharashtra and one]

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri K.B. Zinjarde, counsel for the petitioner,
 Shri N.S. Rao, AGP for respondent no.1,
 Shri M.I. Dhattrak, counsel for respondent no.2.

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATED : APRIL 07, 2015.

By this petition, the petitioner seeks a direction to the respondent no.2-Municipal Council, Bhandara to pay interest on arrears of pension from 1.1.2001 to 17.12.2007.

A preliminary objection is raised on behalf of the respondent no.2 to the tenability of the writ petition. It is submitted that the petition suffers from laches and is liable to be dismissed as such. It is stated that for claiming monetary relief that is sustainable, the same should be made within three years from the date on which the cause of action for payment of the same accrues. It is stated that the pension was paid to the petitioner in the year 2007 and the writ petition is filed on 3.12.2014 i.e. after a lapse of more than seven years.

We uphold the preliminary objection raised on behalf of the respondent no.2 and dismiss the writ petition on the ground of laches. Mere making of representations for a long time would be inconsequential while considering 'sufficient cause'. It is held by the Hon'ble Supreme Court that making of successive representations would not stop the period of limitation. It would be necessary to refer to the judgments reported in 1995 Supp (4) SCC 593 (Administrator of Union Territory of Daman and Diu and others), (1997) 11 SCC 13 (Jai Dev Gupta .vs. State of H.P. and another, (2009) 3 SCC 281 (Yunus

(Baboobhai) A. Hamid Padvekar .vs. State of Maharashtra and through its Secretary and others) and (2006) 4 SCC 322 (Karnataka Power Corporation Limited through its Chairman and Managing Director) and another .vs. K. Thangappan and another) in this regard.

In the instant case, the claim for payment of interest on the pensionary benefits paid in the year 2007 becomes time barred in the year 2010 itself. If the petitioner would have filed a suit for seeking the same relief, the same would have been dismissed on the ground of limitation. We are, therefore, not inclined to entertain the writ petition at this belated stage as the same suffers from laches. The judgments reported in 1998 (8) SLR 397 (Sushila Bhatnagar .vs. State of U.P. And others), 1999 CJ (SC) 1351 (Uma Agrawal .vs. State of Uttar Pradesh), 2009 CJ (Mad) 2453 (S. Ramasubramanian .vs. Ambai Arts College, 2013 CJ (AII) 2750 (A.P. Bajpai .vs. State of U.P. And others) and 2014 CJ (SC) 1062 (Raghubir Singh .vs. General Manager, Haryana Roadways, Hissar) and relied by the learned counsel for the petitioner cannot be made applicable to the case in hand. The facts in the instant case are distinguishable.

Since the petition suffers from laches, we dismiss the same with no order as to costs.

JUDGE

JUDGE