



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2015

CORAM:

THE HONOURABLE Mr. JUSTICE S.MANIKUMAR

and

THE HONOURABLE Mr. JUSTICE G.CHOCKALINGAM

W.A. (MD) No.322 of 2015

K.Ashalatha

... Appellant

Vs.

The Chairman,
Tamil Nadu Teachers Recruitment Board,
D.P.I.Complex, College Road,
Chennai 600 006.

... Respondent

PRAYER: The Writ Appeal is filed under Clause 15 of Letters Patent Act, against the order dated 07.03.2014 in W.P.(MD)No.4051 of 2014 passed by the Learned Single Judge of this Court.

Prayer in WP(MD). 4051/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondent to appoint the petitioner as Graduate Teacher by including her name in the Selection list within a time frame fixed by this Honourable Court.

For Appellant : Mr.V.Balaji

For Respondent : Mr.V.R.Shanmuganathan, Spl.G.P.

JUDGMENT

(Judgment of this Court was delivered by S.MANIKUMAR,J.)

Material on record discloses that the appellant / Writ petitioner appeared for selection to the post of Graduate Teacher in the year 2010. As her name was excluded in the selection list, she had filed a Writ petition in W.P.(MD)No.4051 of 2014 in the year 2014 for issuance of a Writ of Mandamus, directing the Chairman, Tamil Nadu Teachers Recruitment Board, Chennai, the respondent therein, to include her name in the selection list, within a time frame to be fixed by this Court.

2.Taking note of the fact that the results of the selection were already been published during February 2010 itself and that there was delay and laches on the part of the appellant, in filing the Writ petition ie.,after a period of three years, the Writ Petitioner's application dated 07.03.2014 dismissed the Writ Petition in W.P.(MD)No.4051 of 2014.



3. Assailing the correctness of the said order, the Writ Appeal has been filed with a delay of 127 days in filing.

4. Laches has not been defined anywhere and therefore, we deem it fit to extract what laches means. For filing a Writ petition, no time limit has been provided, but, it should be done within a reasonable time.

5. Laches or reasonable time are not defined under any Statute or Rules. "Laches" or "Lashes" is an old French word for slackness or negligence or not doing. In general sense, it means neglect to do what in the law should have been done for an unreasonable or unexplained length of time. What could be the laches in one case might not constitute in another. The laches to non-suit, an aggrieved person person from challenging a proceeding should be inferred from the conduct of the party and that there should be a passive inaction for a reasonable length of time. What is reasonable time has not been explained in any of the enactment. Reasonable time depends upon the facts and circumstances of each case.

6. The words "reasonable time", as explained in *Veerayeeammal v. Seeniammal*, reported in 2002 (1) SCC 134, at Paragraph 13, is as follows:

"13. The word "reasonable" has in law prima facie meaning of reasonable in regard to those circumstances of which the person concerned is called upon to act reasonably knows or ought to know as to what was reasonable. It may be unreasonable to give an exact definition of the word "reasonable". The reason varies in its conclusion according to idiosyncrasy of the individual and the time and circumstances in which he thinks. The dictionary meaning of the "reasonable time" is to be so much time as is necessary, under the circumstances, to do conveniently what the contract or duty requires should be done in a particular case. In other words it means, as soon as circumstances permit. In *P. Ramanatha Aiyar's The Law Lexicon* it is defined to mean:

"A reasonable time, looking at all the circumstances of the case; a reasonable time under ordinary circumstances; as soon as circumstances will permit; so much time as is necessary under the circumstances, conveniently to do what the contract requires should be done; some more protracted space than 'directly'; such length of time as may fairly, and properly, and reasonably be allowed or required, having regard to the nature of the act or duty and to the attending circumstances; all these convey more or less the same idea."



07. It is also well settled that delay defeats equity. In *Board of Secondary Education of Assam v. Mohd. Sarifuz Zaman*, reported in (2003) 12 SCC 408, the Supreme Court has observed as follows:-

"12. Delay defeats discretion and loss of limitation destroys the remedy itself. Delay amounting to laches results in benefit of discretionary power being denied on principles of equity. Loss of limitation resulting into depriving of the remedy, is a principle based on public policy and utility and not equity alone... .."

08. In *S.S. Balu v. State of Kerala*, (2009) 2 SCC 479, the Supreme Court considered a case, where the appellant therein, approached the court, with an inordinate delay, claiming right to appointment. The proposition of law held by the Apex Court is that there is no indefeasible right to appointment. A candidate included in rank list cannot obtain a mandamus, unless arbitrariness or discrimination is established. While addressing the aspect of delay, the Supreme Court, at paragraph 17, held as follows:-

17. It is also well-settled principle of law that "delay defeats equity". The Government Order was issued on 15-1-2002. The appellants did not file any writ application questioning the legality and validity thereof. Only after the writ petitions filed by others were allowed and the State of Kerala preferred an appeal there against, they impleaded themselves as party-respondents. It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment. It is, thus, not possible for us to issue any direction to the State of Kerala or the Commission to appoint the appellants at this stage."

09. In *Ghulam Rasool Lone v. State of J&K*, reported in (2009) 15 SCC 321, the Supreme Court, while considering the scope of equitable relief, considered the following decisions, at paragraphs 14 and 15, which are as follows:-

"14. It is now well settled that who claims equity must enforce his claim within a reasonable time. For the said proposition, amongst others, we may notice a decision of a three-Judge Bench of this Court in *Govt. of W.B. v. Tarun K. Roy*, reported in 2004 (1) SCC 347 = 2004 SCC (L&S) 225, wherein it has been opined: (SCC pp. 359-60, para 34)

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"34. The respondents furthermore are not even entitled to any relief on the ground of gross delay and laches on their



part in filing the writ petition. The first two writ petitions were filed in the year 1976 wherein the respondents herein approached the High Court in 1992. In between 1976 and 1992 not only two writ petitions had been decided, but one way or the other, even the matter had been considered by this Court in Debdas Kumar, reported in 1991 Supp (1) SCC 138 = 1991 SCC (L&S) 841 The plea of delay, which Mr Krishnamani states, should be a ground for denying the relief to the other persons similarly situated would operate against the respondents. Furthermore, the other employees not being before this Court although they are ventilating their grievances before appropriate courts of law, no order should be passed which would prejudice their cause. In such a situation, we are not prepared to make any observation only for the purpose of grant of some relief to the respondents to which they are not legally entitled to so as to deprive others therefrom who may be found to be entitled thereto by a court of law."

(emphasis supplied)

15. The question yet again came up for consideration before this Court in NDMC v. Pan Singh, reported in 2007 (9) scc 278 wherein it has been observed: (SCC p. 283, para 16)

"16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite 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."

10. Again, while referring to statutes of limitation, the Supreme Court described them as statutes of peace. Paragraphs 27 to 29 would be relevant for the purpose of understanding the rationale behind fixing time limit, under the statutes and also as to how the courts have to exercise their jurisdiction of condonation of delay. Though the Apex Court referred to statutory limitations, yet the principles are applicable to writ jurisdiction also, for the reason that delay defeats equity, due to negligence of the parties or laches.



27. Statutes of limitation are sometimes described as "statutes of peace". An unlimited and perpetual threat of limitation creates insecurity and uncertainty; some kind of limitation is essential for public order. This Court in *Rajender Singh v. Santa Singh*, reported in 1973 (2) SCC 705, has observed: (SCC p. 712, para 18)

"18. The object of law of limitation is to prevent disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches."

28. In *Tilokchand Motichand v. H.B. Munshi*, reported in 1969 (1) SCC 110, this Court observed that this principle is based on the maxim "*interest reipublicae ut sit finis litium*", that is, the interest of the State requires that there should be end to litigation but at the same time laws of limitation are a means to ensure private justice suppressing fraud and perjury, quickening diligence and preventing oppression.

29. It needs no restatement at our hands that the object for fixing time-limit for litigation is based on public policy fixing a lifespan for legal remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. Salmond in his *Jurisprudence* states that the laws come to the assistance of the vigilant and not of the sleepy."

11. Reverting to case on hand, selection list had already been published during February 2010 itself and that the appellant had approached this Court in the year 2014 ie., after a period of nearly 3 years.

12. The learned Special Government Pleader for the respondent submitted that as on today, for appointment to the post of Secondary Grade Teacher, he or she must pass the teachers eligibility test.

13. In the light of the decisions stated supra, we do not find any ground to entertain the Writ Appeal. Accordingly, confirming the order dated 07.03.2014 in W.P.(MD)No.4051 of 2014 passed by the learned Single Judge, the Writ Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CO)

/True copy/



To
The Chairman,
Tamil Nadu Teachers Recruitment Board,
D.P.I.Complex, College Road,
Chennai 600 006.

+1cc to Special Government Pleader in Sr No.21353

rg.10.06.2015

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21.04.2015