

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.40680 of 2015

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Date: 16.12.2015

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Between:

N.Gopal, S/o Sevy Naik, Aged 40 years,
Occu: Ex-Water Carrier, C.R.P.F.941361996,
R/o H.No.1-208, Near Sangameshwara Lodge,
Padmavathi Colony, Farooqnabar Mandal,
Shadnagar Taluq, Mahabubnagar District,
Telangana State.

.....Petitioner

and

The Union of India, rep.by its Director General,
Central Reserve Police Force, Lodhi Road, CGO's
Complex, New Delhi and another.

.....Respondents

The Court made the following:

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ORDER:

Petitioner was working as Water Carrier in the Central Reserve Police Force. It appears that he was engaged in the month of September, 1994 in CRPF Unit, Chandrayangutta, Hyderabad. Later he was posted to 113 BN Agartala, Tripura State and in Jammu and Kashmir and after having rendered about 11 years of service, petitioner applied leave for 15 days w.e.f. 04.10.2005 and continued on leave for more than 60 days. His leave expired on 04.12.2005. It is not stated in the affidavit that after availing leave petitioner reported to duty. Having kept quiet for long time, petitioner claims to have submitted representation on 08.11.2015 and soon there after this writ petition is filed contending that his representation is not disposed of so far and seeking direction to the respondents to dispose of the said representation.

2. As seen from the affidavit filed in support of the writ petition, affidavit is silent as to what steps were taken by the petitioner to report to duty after completion of period of leave availed. The averments are also silent as to whether petitioner was granted leave or he was unauthorizedly absent and whether he was entitled to leave mentioned in para-3 of the affidavit. The averments in the writ petition and representation would disclose that petitioner is not diligent in reporting back to duty and in prosecuting his grievance. After 10 years petitioner cannot seek to make a representation and then invoke jurisdiction of this Court contending that said representation is not disposed of. It is possible to infer that petitioner could have been terminated from services on account of his long absence from duty. If that is so, question of directing to pass orders on the representation dated

08.11.2015 does not arise. No such representation is maintainable. Thus, no direction can be issued to entertain and pass orders on such representation. A cause of action which extinguished long ago cannot be reviewed in the form of a representation. The averments in the affidavit are also silent as to what he was doing during this long period of 10 years. Petitioner is not diligent in prosecuting his grievances. He cannot wake up from deep slumber and invoke jurisdiction of this Court.

3. The issue of knocking the doors of the High Court under Article 226 of the Constitution of India, after inordinate delay from the date of arising of cause of action was considered by the Supreme Court in the case of **Chennai Metropolitan Water Supply and Sewerage Board and others vs. T.T.Murali Babu**^[1]. It was a case of dismissal from services. Employee was dismissed on 16.04.1998. An appeal filed by the employee was rejected on 30.06.1998. The High Court of Madras in W.P.No.15272 of 1998 by order dated 12.03.2003 directed reconsideration of the appeal. On reconsideration, appeal was dismissed on 01.07.2003. The same was assailed in W.P.No.25673 of 2007 filed on 07.07.2007. In other words, writ petition was instituted after four years from the date of rejection of appeal. The Supreme Court reviewed the law on the subject of delay in invoking the jurisdiction of the High Court under Article 226 of the Constitution of India and held,

“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.

17. In the case at hand, though there has been four years’ delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinise whether such enormous delay is to be ignored without any justification. ***That apart, in the present case, such belated approach gains more significance as the respondent employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent*** on the pretext of some kind of ill health. We repeat at the cost of repetition that ***remaining innocuously oblivious to such delay does not foster the cause of justice.*** On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others’ ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. ***A court is not expected to give indulgence to such indolent persons — who compete with “Kumbhakarna” or for that matter “Rip Van Winkle”. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold.***” (emphasis supplied).

4. I do not see any valid reasons to entertain the writ petition on a stale issue and granting relief as sought for and accordingly the writ petition is dismissed. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

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[\[1\]](#) (2014) 4 SCC108