

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 8013 of 2011

- Aditya Narayan Jaiswal, S/o Shri Prabhu Narayan Jaiswal, Aged About 52 Years R/o Bouripara, Ambikapur Distt. Sarguja (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary Department Of Excise, D.K.S. Bhawan, Mantralaya, Raipur (C.G.)
2. The Excise Commissioner, Govt. Of Chhattisgarh D.K.S Bhawan Mantralaya Raipur (C.G.)
3. The District Excise Officer, Ambikapur, District Sarguja (C.G.)
4. Collector, Sarguja District Sarguja, Ambikapur (C.G.)

---- Respondent

For Petitioner	Shri Alok Bakshi, Advocate
For Respondent/State	Shri S. Majid Ali, PL

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

16/03/2016

1. The petitioner was a Salesman in the Excise Department till 1984 when his services were terminated w.e.f. 01.04.1984 vide order dated 28.02.1984. Similar order of termination was issued in respect of such salesmen working in the entire state on account of change in liquor policy. The salesmen were thus removed because the government decided not to operate liquor shops of its own. Similarly placed salesmen preferred original application before the erstwhile State Administrative Tribunal, which was allowed and the State Government

was directed to absorb the excise salesmen in other departments of the government. Civil Appeal Nos.6245 to 6247 of 1990 preferred by the State of Madhya Pradesh vs. M. K. Vyas and others before the Supreme Court came to be decided and dismissed on 21.12.1990. Pursuant thereto the other excise salesmen were absorbed in the government services, however, the petitioner did not prefer any original application before the erstwhile State Administrative Tribunal nor preferred any writ petition soon thereafter. The petitioner preferred a writ petition for the first time in the year 2006. WP No.1887/2006 was decided by this Court on 19.02.2008 with a direction to the respondent authorities to consider the petitioner's representation dated 20.02.2006. The said representation was dismissed by the Excise Commissioner, Chhattisgarh on 23.04.2008. The petitioner thereafter preferred WPS No.6368/2008, however, the petition was withdrawn with liberty to take recourse to any other statutory forum that may be available to him. The petitioner thereafter again moved a representation before the State Government, which was rejected by the impugned order dated 03.02.2011. In the meanwhile, the petitioner again filed a writ petition bearing WPS No.6930/2009, which was again disposed of with a direction to the State Government to decide the petitioner's pending appeal.

2. Shri Alok Bakshi, learned counsel for the petitioner, would submit that this petition is preferred only on the ground that the petitioner has been discriminated in the matter of absorption inasmuch as one Raghurai Ram Sahu, who was removed by the same order on 28.02.1984, was offered absorption in the government services on 16.04.1992, however, the same benefit was not extended to the petitioner.

3. Shri Majid Ali, learned Panel Lawyer for the State, would submit that the petition suffers from delay and laches.
4. In the matter of **S. S. Balu and another v. State of Kerala and others**¹, the Supreme Court has held that even in cases where similar reliefs have been allowed in favour of other persons, the candidate approaching the Court after substantial length of time is not entitled to succeed on the strength of similar order.
5. The writ petition suffers from delay and laches. The Supreme Court in the matter of **Chennai Metropolitan Water Supply and Sewerage Board and others v. T.T. Murali Babu**² has held thus:-

“15. In *State of M.P. v. Nandlal Jaiswal* the Court observed that: (SCC p. 594, para 24)

“24. ... it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic.”

It has been further stated therein that: (*Nandlal Jaiswal case*, SCC p. 594, para 24)

“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

1 (2009) 2 SCC 479

2 (2014) 4 SCC 108

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.”

6. This Court has all the sympathy for the petitioner, but the delay is enormous. The petitioner slept over his right from 1984 to 2006 i.e. for a period of 22 years. He never approached the Court or Tribunal soon after his removal from service nor did he prefer any petition when the similarly placed persons were offered appointment in the year 1992. Thus, the writ petition suffers from unexplained delay and laches.
7. For the foregoing, the writ petition is dismissed on the ground of delay and laches.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA