

applied for consideration of his candidature. The petitioner, being eligible, was subjected to a written test in which only 26 candidates including the petitioner and one Bahadur Singh qualified and when those candidates were put to various driving tests, only two i.e. the petitioner and the afore-referred Bahadur Singh qualified, but since only two candidates could qualify the tests, the University decided to hold fresh selections. Resultantly, no appointment letter was issued. Though the petitioner slept over the issue, the afore-referred Bahadur Singh knocked the doors of this Court through **C. W. P. No. 23627 of 2011 – Bahadur Singh vs. B.P.S. Mahila Vishavidalaya Khanpur Kalan, Distt. Sonapat, Haryana through its Registrar**, which, through order dated 07.02.2014, was allowed as under :-

“In view of peculiar facts and circumstances of the case and also the suitability and efficiency of the petitioner as well as passing of driving tests, the petitioner deserves to be appointed as Driver.

Accordingly, the present petition is allowed and the respondent is directed to issue appointment letter to the petitioner after completing all formalities as required under law, within a period of two weeks from the date of receipt of certified copy of this order.”

Relief granted to Bahadur Singh by this Court woke up the

petitioner from his slumber to institute the present petition.

In the background of the afore-referred facts, the present petition has been filed for the reliefs referred to earlier.

I have heard learned counsel for the parties at length.

The petitioner, along with Bahadur Singh, were denied appointment as a Driver way back in May 2011. While Bahadur Singh, being alive to his rights, fought for them, the petitioner slept and woke up only when Bahadur Singh was granted relief. In the meanwhile, nearly three years had elapsed and during this period, all the sanctioned posts of Drivers in the respondent University in the General Category, to which the petitioner belongs, were filled up through successive advertisements including the one against which Bahadur Singh, on getting relief from this Court, was accommodated. The delay on the part of the petitioner, which is unexplained and unjustifiable requires the present petition to be dismissed, especially when in the meanwhile, due to laxity on his part, all available regular sanctioned posts of Drivers in the respondent University got filled up. The person appointed to the last available vacancy is also not arrayed as a respondent in the present writ petition.

On account of the inordinate, unjustifiable and unexplained delay of three years on the part of the petitioner, for want of any vacant regular sanctioned post to which the petitioner stakes claim and in the absence of the last person selected and appointed as a Driver being a party to the present petition, no relief as prayed for by the petitioner can be granted.

This view of mine finds support from a judgment of the Apex Court in S. S. Balu and another vs. State of Kerala and others – (2009)

2 Supreme Court Cases 479, in which it has been held as under :-

“It is also well settled principle of law that ”delay defeats equity.” Government Order was issued on 15.1.2002. Appellants did not file any writ application questioning the legality and validity thereof. Only after the writ petitions filed by others were allowed and State of Kerala preferred an appeal thereagainst, 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. [Emphasis supplied]”

In view of the above, the present petition is ordered to be dismissed.

No costs.

(DEEPAK SIBAL)
JUDGE

April 29, 2016
monika