

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No.3689 of 2005**

Smt. Parvati Sahu, W/o Shri R.P.Sahu, aged about 47 years, Deputy Director, Panchayat & Social Welfare Department, R/o Sarkanda, Bilaspur (CG).

---- Petitioner**Versus**

1. State of Chhattisgarh, through the Secretary, Panchayat and Social Welfare Department, DKS Bhawan, Shastri Chowk, Raipur (CG).
2. Director, Panchayat & Social Welfare Department, Raipur (CG).
3. Shri R.R. Athiyar, Joint Director, Panchayat & Social Welfare Department, Raipur (CG).
4. Shri Bhondulal Dhurve, Joint Director, Panchayat & Social Welfare Department, Mahanadi, Raipur (CG).

--- Respondents

For Petitioner : Mr. Rajeev Shrivastava and Mr. Gagan Tiwari,
Advocates
For State : Mr. Gary Mukhopadhyay, Dy.G.A.

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

13.07.2017

Heard.

(1) Invoking writ jurisdiction of this Court under Article 226/227 of the Constitution of India, the petitioner filed this writ petition seeking appropriate writ/writs commanding the respondents authorities to consider the case of the petitioner for giving promotion on the post of Joint Director, Panchayat & Social Welfare Department w.e.f. 06.12.1996 i.e. the date on which the petitioner's juniors i.e. Respondents No.3 & 4 were promoted.

(2) Learned counsel appearing for the petitioner would submit that

the petitioner is entitled to be promoted w.e.f. 06.12.1996 i.e. the date on which her juniors i.e. respondents No.3 & 4 were promoted on the post of Joint Director, Panchayat & Social Welfare.

(3) On the other hand, learned counsel appearing for the State would submit that the petitioner was promoted on the post of Deputy Director, Panchayat & Social Welfare Department w.e.f. 07.05.1985 by virtue of order dated 24.06.1998 passed by State Administrative Tribunal, Jabalpur in Original Application No.1105/1989 (Ku. Parvati Markam Vs. State of M.P. and Others) and thereafter, during the pendency of the alleged Original Application before the Tribunal, the juniors of the petitioner i.e. Respondent No.4 was promoted on the post of Deputy Director, Panchayat and Social Welfare Department vide order dated 22.12.1990 (Annexure P/6) and later on, respondent No.3 was promoted on the post of Joint Director, Panchayat and Social Welfare Department vide order dated 06.12.1996 (Annexure P/7) and the present writ petition has been filed by the petitioner on 03.08.2005 i.e. after the delay of 09 years from the date of accrual of the cause of action, as such, the delay of 09 years is sufficient to deny the relief, if any, to the petitioners.

(4) I have heard learned counsel for the parties and perused the record with utmost circumspection.

(5) The first and foremost question to be considered by this Court is whether this petition suffer from delay and laches.

(6) The question of delay and laches came to be considered very recently by the Supreme Court in case of **State of Uttaranchal and**

Another v. Shiv Charan Singh Bhandari and Others¹ in which the court has declined to exercise extraordinary jurisdiction in case the petitioner invokes jurisdiction of court with inordinate delay, and held as under:-

"In State of T.N. V. Seshachalam[8], this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus:-

.... filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant."

(7) Likewise, in case of **Uttaranchal Forest Development Corpn. and another Vs. Jabar Singh and others**², it was observed as under:-

"43. The termination order was made in the year 1995 and the writ petitions were admittedly filed in the year 2005 after a delay of 10 year. The High Court, in our opinion, was not justified in entertaining the writ petition on the ground that the petition has been filed after a delay of 10 years and that the writ petitions should have been dismissed by the High Court on the ground of laches."

(8) Further, in the case of **New Delhi Municipal Council v. Pan Singh and others**³, the Supreme Court reiterating the principles relating to interference in cases where petitioner approached the Court with

1 2013 (12)SCC179

2 (2007) 2 SCC 112

3 (2007) 9 SCC 278

unexplained delay as below:

"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. (See Govt. of W.B. v. Tarun K. Roy, U.P. Jal Nigam v. Jaswant Singh and Karnataka Power Corpn. Ltd. v. K. Thangappan.)"

(9) In the case of **P.S. Sadasivaswamy vs. State of Tamil Nadu**⁴, it has been held as under:-

"it is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary power under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner's petition should,

⁴ (1975) 1 SCC 152

therefore, have been dismissed in *limine*. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant's petition as well as the appeal."

(10) In the case of **Bhoop Singh v. Union of India**⁵, it was held as under:

"8. There is another aspect of the matter. Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief. Others are then justified in acting on that belief. This is more so in service matters where vacancies are required to be filled promptly. A person cannot be permitted to challenge the termination of his service after a period of twenty-two years, without any cogent explanation for the inordinate delay, merely because others similarly dismissed had been reinstated as a result of their earlier petitions being allowed.

(11) Bearing in mind the principles of law laid down by the Supreme Court in above referred cases with regard to entertainment of petition filed with inordinate delay and laches if the facts of present case are examined, it would appear that the petitioner was promoted on the post of Deputy Director, Panchayat & Social Welfare Department w.e.f. 07.05.1985 by virtue of order dated 24.06.1998 passed by State Administrative Tribunal whereas respondents No.3 & 4 were promoted on the post of Joint Director on 06.12.1996 and the writ petition was filed by the petitioner on

03.08.2005 and thus, there is delay of 09 years in filing the writ petition.

(12) Apart from this, the petitioner's case has been considered for promotion on the post of Joint Director in the meeting of Departmental Promotion Committee dated 20.03.2008 and as per service rules i.e. The Chhattisgarh Panchayat Avam Sahkari Kalyan (Raj Patr Seva Bharti) Niyam, 1998, criteria for promotion on the post of Joint Director from the post of Deputy Director is suitability-cum-seniority and she was not found suitable for promotion, which has not been challenged in the present writ petition.

(13) The petitioner has approached this Court with a delay of 09 years; and she has to satisfy the Court by explaining the delay in filing the writ petition, in which, she has utterly failed. Thus, writ petition deserve to be dismissed on the ground of delay and laches in filing the writ petition.

(14) As a fall out and the consequences of the aforesaid discussion, the writ petition is held to be devoid of merit and, therefore, dismissed. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-