

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SMT. JUSTICE K.VIJAYA LAKSHMI

WRIT PETITION No. 34111 OF 2017

DATED 12TH OCTOBER, 2017

Between:

Dr. Katakam Jhansi Vijaya Kumari Petitioner

AND

The State of A.P.,
Rep. by its Principal Secretary,
Labour, Employment Training and Factories (IMS) Department,
A.P. Secretariat Buildings, Velagapudi,
Guntur District, A.P., and others ... Respondents

Counsel for the petitioner : Sri M.V.Venu

Counsel for the respondents : G.P. for Services (A.P.)

THE COURT MADE THE FOLLOWING

ORDER: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

Feeling aggrieved by order dated 21-07-2017 in M.A.No. 652 of 2017 in O.A.S.R.No. 3366 of 2017 on the file of the Andhra Pradesh Administrative Tribunal at Hyderabad (for short, 'the Tribunal'), the unsuccessful applicant therein filed this Writ Petition.

2. We have heard learned counsel for the petitioner and perused the record.

3. The petitioner is working as Deputy Civil Surgeon, E.S.I. Dispensary, Innispeta, Rajahmundry, East Godavari District. Her date of birth in the service register was entered as 01-07-1958. She made a request for alteration of her date of birth on 21-01-2008. The said request was rejected by the competent authority by its proceedings dated 15-11-2008. The petitioner approached the Tribunal by filing the Original Application registered as O.A.(SR).No. 3366 of 2017 along with M.A.No. 652 of 2017 for condonation of delay of 7 years 8 months and 25 days in filing the said O.A. In her application, the petitioner has put forth two reasons for the delay in her approaching the Tribunal, namely; (1) the death of her brother and (2) ongoing agitation for separate State of

Telangana. The Tribunal declined to accept both these reasons with the following reasoning:

"While stating the above two reasons, the applicant has not spelt out as to the date on which her brother expired. It is true that loss of a member will cause untold grief to the other family members and there cannot be any end to it. However, as per the provisions of Section 21 of the Administrative Tribunals Act, 1985, the applicant is expected to approach this Tribunal within one year seeking the relief. With regard to the second ground raised by the applicant that due to "ongoing agitation for separate State", the Statehood has been conferred on the State of Telangana in May, 2014 and the bifurcation came into effect from 2nd June, 2014. No whisper as to what the applicant was doing for the last three years is mentioned."

4. In our opinion, the reasoning of the Tribunal as contained in the above reproduced paragraph is highly germane. While the death of a family member is painful as observed by the Tribunal, the petitioner failed to indicate at least the approximate time during which she lost her brother. It is not her case that due to the death of her brother, she stopped attending to her duties. When the petitioner was able to discharge her functions despite the death of her brother, it is not possible to believe that the said reason has prevented her from availing the legal remedy. As regards the agitation for separate State of Telangana, as rightly observed by the

Tribunal, indeed even this does not constitute sufficient reason as the agitation for separate State has nothing to do with the right of the petitioner to avail the legal remedy. At any rate, as rightly observed by the Tribunal, the State of Telangana was formed on 02-06-2014 and she filed the O.A. on 10-07-2017 *i.e.* more than three years after the formation of new State. The law is well settled that the unexplained delay defeats a person's rights. Dealing with the aspect of delay and laches, the Supreme Court in ***Chennai Metropolitan Water Supply & Sewerage Board & others Vs. T.T.Murali Babu***¹ held in para No. 16 as follows:

"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 scrutinize 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

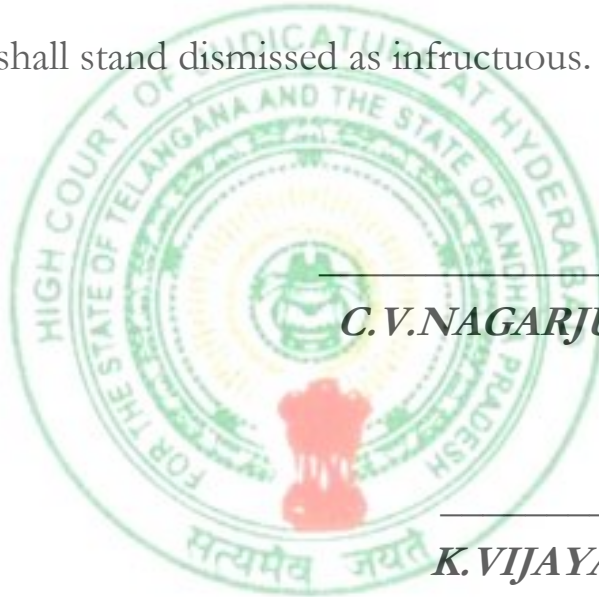
¹ 2014 (4) SCC 108

like a phoenix. Delay does bring in hazard and causes injury to the lis."

The observations made by the Apex Court in the above extracted para of the judgment apply in all fours to the case on hand. Hence, we have no hesitation to dismiss the Writ Petition.

5. The Writ Petition is accordingly dismissed.

6. As a sequel to dismissal of the Writ Petition, W.P.M.P.No. 42421 of 2017 shall stand dismissed as infructuous.



C.V.NAGARJUNA REDDY, J.

K.VIJAYA LAKSHMI, J.

Date: 12-10-2017.

JSK