

**\* THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

**+ WRIT PETITION No.29138 OF 2017**

% 15.11.2017

# C.Venkataiah

...Petitioner

vs.

\$ Telangana State Road Transport Corporation,  
Rep.by its Managing Director, Bus Bhavan,  
Musheerabad, Hyderabad,  
and others.

... Respondents

!Counsel for the Petitioner : Sri V.Narasimha Goud

^Counsel for the Respondents : Sri N.Vasudeva Reddy  
Standing Counsel for APSRTC

<Gist :

>Head Note :

? Cases referred

1. (2014) 4 SCC 108
2. 2013 (4) ALD 386 (FB)
3. AIR 2013 SC 565



**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

**WRIT PETITION No.29138 OF 2017**

**ORDER:**

Heard learned counsel for the petitioner and the learned standing counsel for the respondents.

The petitioner joined the service of the respondent Corporation as a Driver on 21.02.2006 after undergoing process of selection. While so, his services were terminated on 10.07.2007 on the ground that he caused an accident at Assembly Bus Stop while driving the bus on 14.06.2007 from Nampally to Rajendranagar. The police registered a criminal case and the trial went on in C.C.No.933 of 2007 before the Court of the Additional Chief Metropolitan Magistrate, Nampally, Hyderabad. He was acquitted on 11.09.2008. He preferred an Appeal on 31.12.2006 against the original order of termination and the second respondent rejected the Appeal by order dated 27.02.2017. Challenging the said order, the present writ petition is filed.

A counter affidavit is filed on behalf of the respondents stating that the petitioner while performing his duties on 14.06.2007 caused a fatal accident due to rash and negligent driving. The fact of the petitioner undergoing trial and ultimate acquittal on 11.09.2008 was not denied. But it is stated that the petitioner kept quiet for more than nine years after passing the order of termination on 10.07.2007 and eight years after the order of acquittal and then preferred an Appeal on 31.12.2016 with enormous delay. It is also stated that the time stipulated for filing the Appeal is two months as per Regulation 19 of the APSRTC Employees (Classification, Control and Appeal) Regulations, 1967 and the petitioner also did not avail the remedy of approaching the Labour Court, challenging the proceedings dated 10.07.2007.

Thus, the facts in the instant case are not in dispute. The Order of the Appellate Authority dated 27.02.2017 reads as follows:

"The appellant has stated in his appeal that on 14.06.2007 while he was performing duty at RJNR depot met a fatal accident and terminated him from the services. The case was booked against him under IPC 304(A) & u/s 258(1). After careful investigation, the case was dismissed as the result of prosecution failed to establish the rash and negligent driving of him. The Hon'ble I Additional Chief Metropolitan Magistrate, Hyderabad, has come to opinion and released him and dismissed the case. Finally, he has requested to re-engage him into service.

I have carefully gone through the appeal together with the connected records of the case. The contention of the appellant in his appeal is not convincing. As a Heavy Motor Driver, it is his primary duty to drive the vehicle in vigilant and careful manner duly observing the movements of passengers (boarding/alighting) and other road users as his speed and manner of driving must create a safe environment for himself and other road users including passengers. If the appellant had observed the movements of the intended passenger and stopped the bus till moving the passenger to forward from the bus, he could have avoided the accident thereby a precious young life would have been saved. But, the petitioner has driven the vehicle with lack of anticipation and in careless manner and caused this accident. Hence, it is concluded that the appellant is responsible for the cause of this fatal accident. Therefore, the action taken by the DM/RJNR Depot is justified and appropriate.

Further, the appellant was terminated from contract service on 10.07.2007 and submitted his appeal on 31.12.2016. An Appeal should be submitted within two months, whereas the appellant has submitted his appeal after a lapse of almost 9 (nine) years and 5 (five) months period, thus the appeal is also time barred one. This clearly proves that he is not interested in his job. So, I do not find any valid reason to interfere in this case. Hence, the appeal is REJECTED."

Thus, the Order passed by the Appellate Authority is a composite order dealing with the merits of the case as well as the delay.

Learned counsel for the petitioner relied on the Orders of this Court in W.P.No.2786 of 2012 and batch, dated 29.02.2012 and W.A.No.606 of 2009, dated 12.07.2017 and submits that the delay in filing the Appeal before the Appellate Authority does not come in the way of consideration of the case of

the petitioner, if he is otherwise entitled. The learned standing counsel for the respondents, on the other hand, relied on **Chennai Metropolitan Water Supply and Sewerage Board vs T.T.Murali Babu**<sup>1</sup> and submits that the discretionary jurisdiction of this Court shall not be exercised in the case of the negligent person, who preferred an Appeal after nine years of the order of termination and eight years of the order of acquittal.

The Division Bench of this Court, by order dated 12.07.2017, in W.A.No.606 of 2009, after considering the decision in **P.V.Narayana vs A.P.State Road Transport Corporation**<sup>2</sup>, held as under:

"Delay and laches is one of the facets to deny exercise of discretion. It is not an absolute impediment. There can be mitigating factors, continuity of cause action etc. That apart, if the whole thing shocks the judicial conscience, then the Court should exercise the discretion, more so when no third party interest is involved. The doctrine of delay and laches is not a constitutional limitation when the situation shocks judicial conscience (**Tukaram Kana Joshi v MIDC**)<sup>3</sup>. While inordinate delay and laches are factors which this Court would bear in mind in entertaining a Writ Petition under Article 226 of the Constitution, the learned single Judge, on a consideration of the facts and circumstances of the case, has appropriately moulded the relief, and has denied the petitioner monetary benefits from the date of punishment till the writ petition was disposed of."

On the same point of delay and laches, the Supreme Court in the decision of **Chennai Metropolitan Water Supply and Sewerage Board's** case, held as follows:

"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 is at a belated stage

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<sup>1</sup> (2014) 4 SCC 108

<sup>2</sup> 2013 (4) ALD 386 (FB)

<sup>3</sup> AIR 2013 SC 565

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."

A perusal of the termination Order shows that the petitioner was a contract labourer, when he caused the accident and the order of termination was passed in terms of the Contract Agreement. This Court also carefully considered the averments made in the Affidavit filed in support of the writ petition and the Affidavit is totally silent with regard to reasons for delay in approaching the Appellate Authority. In view of the enormous delay in approaching the Appellate Authority, no indulgence can be shown to the petitioner in the present writ petition.

The writ petition is accordingly dismissed. Consequently, miscellaneous petitions, if any pending, in this writ petition, shall stand closed.

**A.RAMALINGESWARA RAO, J**

15.11.2017  
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Note: LR copy be marked.  
(By Order)  
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