

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.12950 OF 2017

DATED : 13.04.2017

Between :

Sri Y. Satish Reddy S/o.Late Sri Y.Kishta Reddy,
Aged about 39 yrs, Occu : Typist,
O/o.The District Welfare Officer,
Women, Children, Disabled & Senior Citizens,
Mancherial, Mancherial District-504 208

..
Petitioner

And

The Project Director/District Welfare Officer,
Women, Children, Disabled & Senior Citizens,
Mancherial, Mancherial District -504 208 & others.

..
Respondents



This court made the following :

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ORDER :

Heard.

2. Petitioner was initially appointed on 21.10.2002 as a typist on temporary basis under the compassionate appointment scheme. Though the petitioner do not have requisite qualification to hold the post of typist, temporary appointment was made in terms of the scheme of compassionate appointment with a condition that petitioner should acquire Telugu Typewriting Higher Grade within a period of two years from the date of his appointment. It is not in dispute that petitioner acquired the qualification, as required, in the year 2006 and after acquiring the qualification, by order dated 23.12.2006 his services were regularized. This writ petition is filed claiming that petitioner's service should be regularized retrospectively from the date of his initial appointment.

3. A bare perusal of the prayer sought in the writ petition would show that petitioner has not challenged the order of regularization granted to him on 23.12.2006, but seeks a declaration to grant retrospective regularization alleging inaction of not granting the regularization.

4. Further the regularization orders were passed on 23.12.2006. Whereas, this writ petition is filed in the year 2017 i.e., after ten years. It appears petitioner made a representation for the first time on 18.08.2016 purportedly referring to the decision of the Andhra Pradesh Administrative Tribunal in O.A.No.6179 of 2010.

5. In exercise of power of judicial review, writ Court can test the validity of a decision of the statutory authority within the well laid down parameters of judicial review. The remedy under Article 226 is an extra-ordinary remedy and equitable. Grant of relief to an aggrieved person is discretionary in the hands of writ Court.

6. Principle of law is well settled that a writ petition need not be entertained even assuming that petitioner has a valid claim, if such writ petition is instituted after an inordinate delay and latches and it is liable to be thrown out on the said ground.

7. In **Sangram Singh Vs. Election Tribunal**¹, Supreme Court delineated scope of exercise of power of judicial review under Article 226 of the Constitution of India. Supreme Court held:

“14. That, however, is not to say that the jurisdiction will be exercised whenever there is an error of law. The High Courts do not, and should not, act as courts of appeal under Article 226. Their powers are purely discretionary and though no limits can be placed upon that discretion it must be exercised along recognised lines and not arbitrarily; and one of the limitations imposed by the Courts on themselves is that they will not exercise jurisdiction in this class of case unless substantial injustice has ensued, or is likely to ensue. They will not allow themselves to be turned into courts of appeal or revision to set right mere errors of law which do not occasion injustice in a broad and general sense, for, though no legislature can impose limitations on these constitutional powers it is a sound exercise of discretion to bear in mind the policy of the legislature to have disputes about these special rights decided as speedily as may be. Therefore, writ petitions should not be lightly entertained in this class of case.”
(emphasis supplied)

8. Though there is no time limit prescribed for institution of a Writ Petition by invoking Article 226 of the Constitution of India, it must be within a reasonable time. Merely because no time limit is prescribed a person can not knock the doors of this Court

¹ (1995) 2 SCR 1 = AIR 1995 SC 423

whenever he feels convenient for him. What is a reasonable time within which a person can avail the extra-ordinary jurisdiction of this Court depends on facts of a given case.

9.1. In ***State of Jammu and Kashmir v. R K Zalpuri and others***², the very issue of delay in instituting the writ petition after long lapse of time was considered.

9.2. On review of the law on the subject, Supreme Court held,

“26. In the case at hand, the employee was dismissed from service in the year 1999, but he chose not to avail any departmental remedy. ***He woke up from his slumber to knock at the doors of the High Court after a lapse of five years.*** The staleness of the claim remained stale and it could not have been allowed to rise like a phoenix by the writ court.”
(emphasis supplied)

10. The claim of petitioner is stale. Petitioner was in deep slumber for 10 years. As held by Supreme Court in ***Chennai Metropolitan Water Supply and Sewerage Board Vs. Murali Babu***³, ‘***law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis***’. Thus granting relief to petitioner is not just and equitable in a petition filed after 10 years. Having regard to inordinate delay of 10 years the Court declines to exercise discretionary and equitable jurisdiction. This Writ Petition is liable to be dismissed on the ground of delay and laches in invoking the jurisdiction of this Court.

11. At this stage, learned Government pleader, also points out that in accordance with the orders of the Government in

² (2015) 15 SCC 602

³ (2014) 4 SCC 108

G.O.Ms.No.151 dated 22.06.2004 regularization of person who was appointed temporarily without possessing requisite qualification and acquires qualification subsequently, such regularization should be only from the date of acquiring the qualification but not from the date of initial temporary appointment.

12. Having regard to these facts, the writ petition is liable to be dismissed in limini.

13. Accordingly, the Writ petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

13th April, 2017
Rds

P.NAVEEN RAO,J

