

In the High Court of Judicature at Hyderabad
for the State of Telangana and the State of Andhra Pradesh

Writ Appeal No.1485 of 2017

Between:

B.R.Chandraiah

... Appellant

and

**The Hon'ble Industrial Tribunal –cum-
Labour Court, Ananthapur, Ananthapur District,
Rep. by its Presiding Officer and another**

... Respondents

Date of Judgment Pronounced: 09-10-2017

Submitted for Approval:

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Smt. Justice Kongara Vijaya Lakshmi

1. Whether Reporters of Local newspapers may be allowed to see the judgments ? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment ? Yes/No

**_____
(C.V.Nagarjuna Reddy, J)**

**_____
(Kongara Vijaya Lakshmi, J)**

* The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and
The Hon'ble Sri Justice Kongara Vijaya Lakshmi

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! Counsel for the Appellant: Mr.G.Ravi Mohan

^ Counsel for respondent No.2: Mr.Aravala Rama Rao,
SC for APSRTC

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>HEAD NOTE:

? Cases cited:

2013 (4) ALD 386 (FB)
W.P.No.31629 of 2010, dated 21-11-2013
2014 (4) SCC 108



The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and
The Hon'ble Smt. Justice Kongara Vijaya Lakshmi
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Counsel for the Appellant: Mr.G.Ravi Mohan

**Counsel for respondent No.2: Mr.Aravala Rama Rao,
SC for APSRTC**

The Court made the following:



Judgment: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Appeal is filed assailing Order, dated 21.01.2016, in WP.No.6638 of 2011.

The appellant, who was a conductor in respondent No.2- Corporation, was subjected to departmental proceedings, for his unauthorized absence for a specified period, which culminated in termination of his service on 06-03-1997. After exhausting the departmental remedies unsuccessfully, the appellant has knocked the door of respondent No.1- Industrial Tribunal (for short 'the Tribunal'). By its award, dated 30.08.2001, the Tribunal, while setting aside the order of termination, substituted the penalty of deferment of four annual increments with cumulative effect. It has, however, granted continuity of service without backwages to the appellant. The appellant, having allowed the said order to remain in force for ten years, after enjoying the benefit of reinstatement, approached this Court by filing the afore-mentioned Writ Petition in the year 2011.

The appellant has mainly raised a two-fold pleading in the Writ Petition *viz.*, that the Tribunal has committed an error in substituting the penalty after setting aside the order of removal

and alternatively, that it has committed a serious error in not extending the monitory benefits while ordering continuity of service. A further plea was advanced to the effect that the appellant's pay has not been fixed till date though he was reinstated into service in January, 2002, and that he has not filed the Writ Petition earlier with the fond hope that his pay will be fixed by adding increments. The Writ Petition was strongly resisted by respondent No.2- Corporation mainly on the ground that the same suffers from unexplained laches.

The learned Judge held that the appellant has failed to offer any plausible explanation for the abnormal delay of more than 10 years in filing the Writ Petition. He has referred to a full Bench Judgment of this Court in **P.V.Narayana vs. A.P.State Road Transport Corporation, rep. by its Managing Director, Musheerabad, Hyderabad and others**¹ and also an unreported judgment of this Court in **M.V.G.Prasad, Ananthapur District vs. M.D. APSRTC and three others**², in holding that a person, who has not availed his remedy within a reasonable time and has not properly explained the reasons for his delay in approaching the Court, is not entitled to invoke the discretionary jurisdiction of this Court under Article 222 of the Constitution of India and

¹ 2013 (4) ALD 386 (FB)

² W.P.No.31629 of 2010, dated 21-11-2013

that accordingly, the Writ Petition is liable to be dismissed only on the ground of laches. Having so held, the learned Judge also went into the issue as to whether the Corporation is justified in refusing to grant increments for the period during which the petitioner was out of duty. After referring to the relevant case laws, the learned Judge held as under:

“Therefore, in view of the above judgments, the contention that the entitlement for increments is a sequel to the continuity of service cannot be countenanced and approved. On the other hand, the same is neither automatic, nor inceptional, nor a natural corollary for continuity of service. The Tribunal recorded categorical and cogent reasons in support of the conclusions, as such, no interference under Article 226 of the Constitution of India is warranted.”

As regards the finding of the learned Judge regarding the laches, it is not in dispute that the appellant has not offered any semblance of explanation for approaching this Court ten years after disposal of the case by the Tribunal.

In **Chennai Metropolitan Water Supply and Sewerage Board and Ors. Vs. T.T.Murali Babu³**, the Supreme Court has made a succinct exposition of law on the doctrine of laches. In Paragraph 16 thereof, the Supreme Court held as under:

³ 2014 (4) SCC 108

“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 like a phoenix. Delay does bring in hazard and causes injury to the lis. In the case at hand, though there has been four years’ delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others’ ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to

such indolent persons - who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."

On the facts of the present case, we have no doubt that the appellant has played the role of a 'Kumbhakarna' or 'Rip Van Winkle', for, he has remained quiet for ten years and after waking up from the deep sleep, he has approached this Court. A person, who slept over his purported rights for unduly long period, cannot insist, as of right, that his claim must be adjudicated on merits by this Court, for, the nature of jurisdiction exercised by this Court under Article 226 of the Constitution of India is purely discretionary. A litigant cannot, at his will or as and when he feels, at his leisure, invoke the discretionary jurisdiction of this Court. We have, therefore, no hesitation to hold that the petitioner, who miserably failed to explain his conduct in not approaching this Court within a reasonable time, was rightly non-suited by the learned Single Judge on the ground of laches.

As regards the plea of the appellant that he is entitled to increments, though the learned Judge has rendered a finding on merits that he is not entitled to any such increments based on case

law, we refuse to be drawn into this debate for the simple reason that once the appellant is non-suited on the ground of laches, the question of considering his further pleas on merits does not arise.

For the afore-mentioned reasons, we do not find any merit in this Writ Appeal and the same is, accordingly, dismissed.

(C.V.Nagarjuna Reddy, J)

(Kongara Vijaya Lakshmi, J)

Dt: 9th October, 2017

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