NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2600 of 2018

Chhotan Prasad Sharma, aged about 65 years, S/o Late Shri B.N. Sharma, Ex-Constable No.- 6812, R.P.F. Post Ranchi Adra Division, R/o Sanyasipara Khamtarai Raipur, Chhattisgarh.

---- Petitioner

Versus

1. Union of India, Ministry of Railways through the Jt. Director, Estt. (Res.), Railway Board Rail Bhawan, New Delhi – 110001.
2. Inspector General, Railway Protection Force, Rail Bhawan, New Delhi.
3. The Divisional Security Commissioner, RPF South Eastern Railway, Adra.
4. The Chief Security Commissioner Railway Protection Force/South Eastern Railway, Gardenreach, Kolkata-43.

---Respondents

For petitioner : Shri R. K. Thakur, Advocate.
For Respondent No. 1 : Shri Rajkumar Gupta, Asst. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/04/2018

1. The counsel for the petitioner prays the following relief.

   (A) That, this Hon'ble Court may kindly do issue in the nature of Writ of Mandamus or any other appropriate Writ and quash the order of the petitioner's removal from the service.

   (B) That, this Hon'ble Court may kindly be direct the Respondent authorities to relish applicants compassionate allowance, pension, interest of P.F. for twenty years, payment of December 1995, Bonus for year 1994-1995, amount deducted under Rail Surksha Nidhi, amount of leave encashment and other dues for which the applicant is entitled as per law.

2. Perusal of the record would say that the petitioner has admitted that the service of the petitioner got dismissed on 04.06.1998. Against the said

dismissal order, a departmental appeal was preferred and the same was also dismissed on 07.06.1999.

3. The present writ petition has been filed on 01.03.2018 with an unexplained and inordinate delay of about 20 years. This Court is of the clear view that the petition suffers from delay and latches as the petitioner did not care to challenge the order of termination as well as rejection of the appeal which took place about 20 years back.

4. There is no powerful justification or any document to justify the delay caused in filing the present Writ Petition. This by itself is now well settled by a series of decisions passed by the Hon'ble Surpeme Court.

> "The issue of delay and laches is concerned, the law has been well settled by series of judgment rendered by the Supreme Court. In one of the recent decision the Supreme Court in the case of **Chennai Metropolitan Water Supply and Sewerage Board and Others, 2014 (4) SCC 108** has in para 15, 16 & 17 held as under:
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> > "15. In State of M.P. And others etc. etc. v. Nandlal Jaiswal and others etc. etc., (1986) 4 SCC 556, the Court observed that (SCC p. 594, para 24)
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> > "24. .....that power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic."
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> > "24. ..... if there is inordinate delay on the part of the petitioner in filing a petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction."
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> > 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 principal 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.....
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> 17. .... 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 excepted to give indulgence to such indolent persons. ... 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."

5. In view of the aforesaid judicial pronouncement and also considering the fact that present writ petition has been filed after about 20 years from the date of dismissal, this Court is of the opinion that no strong case has been made out by the counsel for the petitioner.

6. The appeal thus stands dismissed on the ground of delay itself.

Sd/-

(P. Sam Koshy)
JUDGE

Pawan