

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 2787 OF 2018**

• H.R. Verma, S/o Shri Purshottam Verma, aged 55 years, R/o Shivnand Nagar, Sector-2, District Raipur (C.G.) **... Petitioners**

versus

1. State of Chhattisgarh, through its Secretary, Department of Commerce & Industries, Mahanadi Bhawan, Naya Raipur, District Raipur (C.G.)

2. Chhattisgarh State Industrial Development Corporation, through its Managing Director, First Floor, Udyog Bhawan, Ring Road No.1, District Raipur (C.G.)

3. G.K. Swarnkar, aged 55 years, S/o not known, posted as Executive Engineer, Chhattisgarh State Industrial Development Corporation, Ring Road No.1, District Raipur (C.G.) **... Respondents**

For Petitioner	:	Mr. Rajeev Shrivastava, Advocate, assisted by Ms. Shiksha Verma, Advocate.
For Respondent 1	:	Mr. Sangharsh Pandey, Dy. Advocate General.
For Respondent 2	:	Mr. Ayaz Naved, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/04/2018

1. The present writ petition has been filed assailing the order of promotion granted to Respondent No.3 vide order dated 31.10.2017 (Annexure P-1) and also the order dated 12.10.2017 (Annexure P-2) whereby the representation of the Petitioner stood rejected.

2. Grievance of the Petitioner is that the Petitioner is senior to Respondent No.3 yet ignoring the seniority of the Petitioner the Respondent No.2 now has promoted the Respondent No.3 to the post of Executive Engineer.

3. Contention of learned Counsel for the Petitioner is that the Petitioner in the instant case was selected as a Junior Engineer in the year 1983 along with Respondent No.3 and the name of the Petitioner was reflected at Sl. No.2 and the name of Respondent No.3 was reflected at Sl. No.3, which by itself would establish the fact that the Petitioner was senior to Respondent No.3 at the time of induction in the employment. He further submits that subsequently the Respondent No.2 has re-arranged the seniority-list when the order of promotion was issued to the Petitioner way back in the year 1994 giving

promotion with effect from 1991 and in the said promotion order the name of Respondent No.3 was placed over and above the Petitioner. However, as there was no scope of promotion in the near future, the Petitioner at that point of time did not raise any grievance and now when the next promotion to the post of Executive Engineer was being considered by the department he has moved a representation which stood rejected vide Annexure P-2, dated 12.10.2017 and subsequently the Respondent No.2 vide Annexure P-1, dated 31.10.2017 have promoted the Respondent No.3 to the post of Executive Engineer from the post of Assistant Engineer.

4. This Court is not inclined to entertain the present writ petition on the simple reason that the petition suffers from delay and laches. From the contents of the pleadings itself it is evidently clear that the Petitioner was appointed in the year 1983 under the erstwhile State of Madhya Pradesh and the Respondent No.3 was also appointed along with the Petitioner. Both the Petitioner as well as the Respondent No.3 were appointed as Junior Engineer. Subsequently, in the year 1994 i.e. on 24.8.1994, the Petitioner and Respondent No.3 both were granted promotion with effect from 21.5.1991 and when the order of promotion in the year 1994 was published the name of Respondent No.3 was shown above the Petitioner and which continued till date. Perusal of record would also show that the gradation-list of the department was also published in the year 2010 and again in the year 2012 and in both these gradation-lists also the name of Respondent No.3 was reflected over and above the Petitioner's name. Right from 1994 till 2016 when the first representation of the Petitioner was made, i.e., on 9.9.2016, there does not appear to have been any grievance raised by the Petitioner either to the order of promotion granted in the year 1994 placing the Respondent No.3 above the Petitioner so also there was no objection whatsoever raised when the gradation-list for the years 2010 and 2012 were published.

5. Given the aforesaid facts and circumstances of the case it is evidently clear that the Petitioner at that point of time has not challenged the seniority given to Respondent No.3 and the present grievance is being raised after more than 22-23 years from the date the department had placed the Respondent No.3 over and above the Petitioner, when the order of promotion was passed in the year 1994. Thus, this Court is of the opinion that the writ petition suffers from delay and laches and accordingly deserves to be dismissed.

6. The Hon'ble Supreme Court in **Chennai Metropolitan Water Supply and Sewerage Board and Others v. T.T. Murali Babu, 2014 (4) SCC 108**, after relying on its decision rendered in **State of M.P. v. Nandlal Jaiswal, 1986 (4) SCC 566**, held thus at para 15 & 16:

“15. In State of M.P. v. Nandlal Jaiswal the Court observed that: (SCC p. 594, para 24)

“24. ...it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic.”

It has been further stated therein that: (Nandlal Jaiswal case, SCC p. 594, para 24)

“24. ...If there is inordinate delay on the part of the petitioner in filing a writ 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.”

Emphasis was laid on the principle of delay and laches stating that resort to the extraordinary remedy under the writ jurisdiction at a belated stage is likely to cause confusion and public inconvenience and bring in injustice.

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 scrutinise 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.”

7. As regards the judgment cited by the learned Counsel for the Petitioner, i.e., *Union of India & Others v. Tarsem Singh*, 2008 (8) SCC 648, harping that the cause of action being a recurring cause of action, the facts of the said case would not be attracted in the present case for the simple reason that the judgment relied upon was in respect of certain pensionary benefits which the petitioner was claiming therein, but the instant case is in respect of promotion which the Petitioner is seeking.

8. The writ petition stands dismissed accordingly.

Sd/-
(P. Sam Koshy)
Judge