

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO. 4342 OF 2018**

1. Arun Kumar Sinha S/o Late Shri S.P. Sinha, Aged About 62 Years R/o M/212, Bartunga Colony, P.O. Chirimiri, District Korea Chhattisgarh.

...Petitioner(s)**Versus**

1. Coal India Limited Through Its Chairman 10 Netaji Subhash Road Calcutta (West Bengal), District : Kolkata, West Bengal.
2. South Eastern Coalfields Limited, Through Chairman-Cum-Managing Director, Seepat Road, Bilaspur District Bilaspur Chhattisgarh.

... Respondent(s)

For Petitioner : Shri Vinod Kumar Sharma, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****04.07.2018**

1. The claim of the petitioner is that he may be upgraded on the Grade-B post w.e.f. 21.09.2000 and in consequence the petitioner be paid benefit of arrears of payment as also the retiral benefits be calculated accordingly.
2. The grievance of the petitioner is that, though the petitioner was initially appointed on 30.10.1974 and he was upgraded to the post of Technical Supervisor Grade-C on 16.08.1999. Thereafter he was upgraded in category-IV whereas he ought to have been upgraded in Grade-B as Technical Supervisor. Later on, the petitioner was upgraded in Grade-B post in the year, 2007 whereas he ought to have been upgraded in the year, 2000 itself. It is this grievance for which the petitioner has now filed the present writ petition.
3. At the outset, this court does not find any justification on the part of the petitioner in not challenging the alleged action on the part of the respondents at an appropriate time. The petitioner took almost 11

years for filing of the present writ petition from the date he has been upgraded in Grade-B or at-least 18 years from the date he was eligible for up gradation to Grade-B post.

4. The law so far as delay and laches is by now well settled. This court is not inclined to entertain the writ petition only on the ground of delay and laches.
5. The question of delay and laches came to be considered by the Supreme Court in case of **State of Uttaranchal and Another v. Shiv Charan Singh Bhandari and Others**¹ in which the court has declined to exercise extraordinary jurisdiction in case the petitioner invokes jurisdiction of court with inordinate delay, and held as under :

"In State of T.N. v. Seshachalam[8], this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus: -

...filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant."

6. Further, in the case of **New Delhi Municipal Council v. Pan Singh and others**², the Supreme Court reiterating the principles relating to interference in cases where petitioner approached the Court with unexplained delay as below:

"16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest

¹ 2013 (12) SCC 179

² (2007) 9 SCC 278

possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction. (See *Govt. of W.B. v. Tarun K. Roy*, *U.P. Jal Nigam v. Jaswant Singh* and *Karnataka Power Corpn. Ltd. v. K. Thangappan*.)”

7. Recently in case of **Chennai Metropolitan Water Supply and Sewerage Board and Others v. T.T. Murali Babu**³, the Supreme Court has clearly held that delay may have impact on others’ ripened rights and may unnecessarily drag others into litigation, and expressed their opinion as under-

“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 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."

8. Bearing in mind the principles of law laid down by the Supreme Court in the above referred cases with regard to entertainment of petition filed with inordinate delay and laches, if the facts of present case is examined, it would appear that the petitioner has filed this petition in the month of June, 2018 whereas, cause of action arose in the year, 2007, and as such there is delay of about eleven years in filing the petition and the petitioner has neither explained such delay nor has filed any document to substantiate the same.
9. Accordingly, the petition deserves to be and is hereby dismissed on the ground of delay and laches only.

Sd/-
(P. Sam Koshy)
Judge