

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) NO. 7859 OF 2018

Mahendra Singh Parihar @ Mahendra Kumar Parihar S/o Shri Malik Ram Parihar, Aged About 36 Years, R/o Village Birgahani, Post Office - Birgaon, Police Station Jarhagaon, Tahsil And District Mungeli, Chhattisgarh.

... Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Home (Police) Department, Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh.
2. The Under Secretary, State Of Chhattisgarh, Home Department, Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh.
3. The Director General Of Police, Police Headquarter Chhattisgarh, Raipur, Chhattisgarh.
4. The Inspector General Of Police (Administration), Raipur Chhattisgarh.
5. The Deputy Inspector General Of Police (Chhattisgarh Armed Force), Bilaspur, Chhattisgarh.
6. The Commandant, 2nd Battalion, Chhattisgarh Armed Force, Sakri, District Bilaspur, Chhattisgarh.

... Respondents

For Petitioner	:	Mr. Rishi Rahul Soni, Advocate.
For Respondent-State	:	Mr. Syed Majid Ali, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

30/11/2018

1. The present writ petition has been filed by the Petitioner assailing the two orders i.e. Annexures-P/1 & P/2 dated 25/02/2006 and 22/10/2008 respectively.
2. The facts of the case in brief is that, the petitioner was appointed as a Constable under the respondents and was posted at the 2nd Batallion of the Chhattisgarh Armed Force at Sakri, Bilaspur on 06/08/2005. However, subsequently, when it was learnt that there was certain suppression of facts on part of the petitioner so far as his criminal antecedents are concerned, the authorities have passed an order on 25/02/2006 ordering removal from service of the petitioner. The said order dated 25/02/2006 was questioned by the petitioner by way of a representation and the representation also stood

rejected as early as on 22/10/2008. From 22/10/2008, the present Writ Petition now has been filed after more than 10 years i.e. on 03/11/2018.

3. This Court has no hesitation in reaching to the conclusion that the petition suffers from inordinate delay and as such is hit by delay and laches. No justifiable and plausible explanation has been given by the petitioner to explain the delay in approaching the Court for redressal of his grievance.

4. 10 years is a pretty long time for a person aggrieved to approach the Writ Court for invoking the writ jurisdiction under Article 226 of the Constitution of India.

5. It has been repeatedly held by the Hon'ble Supreme Court that against an impugned order, if a person wishes to approach the Court invoking writ jurisdiction, he should approach the Court within a reasonable period. The reasonable period cannot be stretch to the extent of more than a decade.

5. So far as the delay and laches are concerned, the law in this regard is by now well settled by a series of decisions of the Hon'ble Supreme Court. The question of delay and laches came to be considered recently 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."

¹ 2013 (12) SCC 179

6. Likewise, in the case of **Uttaranchal Forest Development Corpn. and another v. Jabar Singh and others**², it was observed as under:

“43. The termination order was made in the year 1995 and the writ petitions were admittedly filed in the year 2005 after a delay of 10 years. The High Court, in our opinion, was not justified in entertaining the writ petition on the ground that the petition has been filed after a delay of 10 years and that the writ petitions should have been dismissed by the High Court on the ground of laches.”

7. Further, in the case of **New Delhi Municipal Council v. Pan Singh and others**³, the Supreme Court reiterating the principles relating to interference in cases where the petitioner approached the Court with unexplained delay, held as under:

“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 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*.)”

8. In the case of **P. S. Sadasivaswamy v. State of Tamil Nadu**⁴, it has been held as under:-

“It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner’s petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant’s petition as well as the appeal.”

²(2007) 2 SCC 112

³(2007) 9 SCC 278

⁴(1975) 1 SCC 152

9. In the case of **Bhoop Singh v. Union of India**⁵, it was held as under:

“8. There is another aspect of the matter. Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief. Others are then justified in acting on that belief. This is more so in service matters where vacancies are required to be filled promptly. A person cannot be permitted to challenge the termination of his service after a period of twenty-two years, without any cogent explanation for the inordinate delay, merely because others similarly dismissed had been reinstated as a result of their earlier petitions being allowed.”

10. Very recently in the matter of **Chennai Metropolitan Water Supply and Sewerage Board and Others v. T.T. Murali Babu**⁶, the Supreme Court has clearly held that the 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,

⁵ (1992) 3 SCC 136

⁶ 2014 (4) SCC 108

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.”

11. In view of the aforementioned authoritative decisions of the Hon'ble Supreme Court, this Court does not find any good ground for entertaining the present writ petition and the same thus is dismissed on the ground of delay and laches.

Sd/-
(P. Sam Koshy)
Judge

Sumit