

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2576 OF 2017

Raju Kallu

...Petitioner

V/s.

Union of India and Ors.

....Respondents

* * * * *

Mr. Rahul Walia, Advocate for the petitioner.
None for the respondent.

Coram : A.S. Oka, &

Sandeep K. Shinde, JJ.

Wednesday, 12th December, 2018.

P.C. :

1. Heard learned Counsel for the petitioner.
2. By this writ petition under Article 226 of the Constitution of India, which is filed on 30th September, 2016, the petitioner has taken an exception to the orders dated 10th April, 1995, 5th February, 1997 and 15th November, 2000 passed by the Disciplinary Authority, Appellate Authority and Revisional Authority respectively. The petitioner was working as a Constable in Railway Protection Force. By the impugned order of the Disciplinary Authority, punishment of removal from service with immediate effect was imposed upon the petitioner. That order was confirmed

by the Appellate Authority and Revisional Authority. Even before the Revisional Authority could decide the matter in the year 1998, the orders of the Disciplinary Authority and the Appellate Authority were challenged by the petitioner by filing a Writ Petition in Allahabad High Court. On 14th February, 2006 Allahabad High Court came to the conclusion that the said High Court had no territorial jurisdiction and therefore, the petition was dismissed as not maintainable. After lapse of ten and half years from the date of order of Allahabad High Court, the present petition has been filed for challenging the order of the Disciplinary Authority, first Appellate Authority as well as the Revisional Authority.

3. When we called upon the learned Counsel for the petitioner to address us on the gross delay of more than ten years in filing the present Writ Petition, he submitted that, there was some difficulty for the petitioner to get the papers from his advocate, as well as a copy of the caste certificate dated 6th November, 1992. He stated that by letters sent in June and September, 2014, the petitioner was informed that the Caste Certificate was destroyed in fire. Therefore, a

fresh Caste Certificate was obtained by the petitioner from the Competent Authority in the year 2014.

4. We have considered the said explanation for delay. We have perused the letters of June and September, 2014. It appears from the said letters that information was sought by the petitioner about the Caste Certificate in the year 2014. Even before the petitioner was informed that the record has been destroyed on 20th January, 2014, a fresh Caste Certificate was issued to the petitioner as can be seen from Exhibit-N. Apart from the fact that, obtaining of Caste Certificate has no relevance, even from 20th January, 2014 the petitioner did not file the petition for a period of two years and eight months. Thus, there is an unexplained gross delay and laches. The jurisdiction under Article 226 of the Constitution of India is always discretionary. Considering the long delay for 10 years for which there is absolutely no explanation, we decline to entertain this petition under Article 226 of the Constitution of India. The petition is accordingly, rejected.