

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11588 of 2018

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Braj Kishore Singh S/o Late Baikunth Singh R/o Village and Post Office-
Mujan, Police Station- Mohania, District- KaimurBhabhua, Lecturer in
Political Science. Petitioner/s

Versus

1. The State Of Bihar through the Director (Higher Education), Bihar Government, Patna
 2. The Director Higher Education, Education Department, Government of Bihar, Patna-1
 3. The Veer Kunwar Singh University, Ara through its Registrar.
 4. The Vice-Chancellor, Veer Kunwar Singh University, Ara
 5. The Registrar, Veer Kunwar Singh University, Ara Respondent/s
- =====

Appearance :

For the Petitioner/s	:	Mr.Rang Nath Pandey
For the Respondent/s	:	Mr.Kameshwar Kumar- Gp17
For University	:	Archana Pallear Khopde
	:	Mr. P.K. Verma

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 21-02-2019

1. The present writ petition has been filed for quashing the notification dated 24.05.2006 issued by the Veer Kunwar Singh University, Ara, whereby and whereunder the date of absorption of the petitioner as lecturer has been shifted from 06.02.1981 to 19.03.1986.

2. I have heard the learned counsel for the parties and gone through the pleadings in the writ petition and I find that there is an absolute silence about the reason for approaching this Court after a lapse of about 12 years approximately.

3. It is well-settled law that a Writ Court under Article 226 of the Constitution of India should not exercise its discretion to entertain such stale claims by persons who try to unsettle the settled



matters which only clog the work of the Court impeding it in considering the genuine grievances within time.

4. It would be apt to reproduce hereinbelow paragraphs no. 9, 10, 11 and 16 of a judgment rendered by the Hon'ble Apex Court, reported in **(2018) 5 SCC 798 (Union of India and others v. Chaman Rana)** :-

“9. As far back as in P.S. Sadasivaswamy vs. The State of Tamil Nadu, considering a claim for promotion belated by 14 years, this Court had observed that a period of six months or at the utmost a year would be reasonable time to approach a court against denial of promotion and that it would be a sound and wise exercise of discretion not to entertain such claims by persons who tried to unsettle the settled matters, which only clog the work of the court impeding it in considering genuine grievances within time in the following words :-

“2..... A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. 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."

10. Mere repeated filing of representations could not be sufficient explanation for delay in approaching the Court for grant of relief, was considered in *Gandhinagar Motor Transport Society vs. State of Bombay*, A.I.R. 1954 Bombay 202, by Chief Justice Chagla, observing as follows :

"(2)..... Now, we have had occasion to point out that the only delay which this Court will excuse in presenting a petition is the delay which is caused by the petitioner pursuing a legal remedy which is given to him. In this particular case the petitioner did not pursue a legal remedy. The remedy he pursued was extra-legal or extra-judicial. Once the final decision of government is given, a representation is merely an appeal for mercy or indulgence, but it is not pursuing a remedy



which the law gave to the petitioner...”

11. The appellant, in its counter affidavit before the High Court, had specifically taken the objection that the claim was highly belated, and that any direction for a retrospective consideration would have a destabilising effect in unsettling the settled position which would lead to complete chaos apart from other administrative consequences. The High Court failed to consider the objection. In Union of India vs. M.K. Sarkar, (2010) 2 SCC 59, this Court observed as follows:

“16. A court or tribunal, before directing ‘consideration’ of a claim or representation should examine whether the claim or representation is with reference to a ‘live’ issue or whether it is with reference to a ‘dead’ or ‘stale’ issue. If it is with reference to a ‘dead’ or ‘stale’ issue or dispute, the court/tribunal should put an end to the matter and should not direct consideration or reconsideration....”

16. In the facts and circumstances of the present case, any direction to consider retrospective promotion of the respondents at such a belated passage of time of over 17 to 20 years, would virtually bring a tsunami in the service resulting in administrative chaos quite apart from the financial implications for the government. The order of the High Court is therefore held to be unsustainable and is set aside”

5. It would further be relevant to reproduce paragraph no. 40 of a judgment rendered by the Hon’ble Apex Court in the case of



A.P. Steel Re-Rolling Mill Ltd. v. State of Kerala and Others
reported in (2007) 2 SCC 725 hereinbelow :-

“40. The benefit of a judgment is not extended to a case automatically. While granting relief in a writ petition, the High Court is entitled to consider the fact situation obtaining in each case including the conduct of the petitioner. In doing so, the Court is entitled to take into consideration the fact as to whether the writ petitioner had chosen to sit over the matter and then wake up after the decision of this Court. If it is found that the appellant approached the Court after a long delay, the same may disentitle him to obtain a discretionary relief . {See [Chairman, U.P. Jal Nigam and Anr. v. Jaswant Singh and Anr.](#) 2006 (12) Scale 347.}”

6. Having regard to the law laid down by the Hon’ble Apex Court, as discussed in the preceding paragraphs hereinbelow, the present writ petition is fit to be dismissed on the ground of delay and laches especially since no interference is warranted by this Court nearly after 12 years after the alleged cause of action had arisen to the petitioner herein.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	28.05.2019
Transmission Date	NA

