NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (S) NO.1281 OF 2019

Laxmi Narayan Chandrakar S/o Late Anandi Narayan Chandrakar Aged About 32 Years R/o Budhwari Bazar, Jagdish Mandir Road, Narayanpur, District Narayanpur Chhattisgarh.

…Petitioner(s)

Versus

1. State Of Chhattisgarh Through The Secretary, Tribal Welfare Department, Mantralaya, Mahanandi Bhawan, Capital Complex Naya Raipur District Raipur Chhattisgarh.
2. Assistant Commissioner Tribal Welfare Department, Naranpur District Narayanpur Chhattisgarh.
3. District Education Officer Naranpur District Narayanpur Chhattisgarh.
4. Block Education Officer Naranpur District Narayanpur Chhattisgarh.

… Respondent(s)

For Petitioner	:	Shri Ashok Patil, Advocate.
For Respondent-State	:	Shri Sameer Behar, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

25.02.2019

1. The relief sought for by the petitioner is for a direction to the respondents to consider his claim for compassionate appointment.

2. The facts of the case is that, the father of the petitioner died in harness working as Assistant Teacher in the Tribal Welfare Department on 19.06.1996**.** It is said that after death of the deceased employee, the widow had moved an application for keeping the matter alive till the present petitioner i.e. son of the deceased attains majority. According to the petitioner, after attaining the age of majority in the year, 2005 the present petitioner had moved an application to consider his candidature which till date has not been decided and therefore the present writ petition has been filed.

3. This court, at the outset, is not inclined to entertain the writ petition for the simple reason that the petition suffers from inordinate delay and laches. The death of the deceased employee took place in the year, 1996**.** The petitioner attained the age of majority in the year, 2005 and the present petition has been filed on 08.02.2019. This by itself clearly shows that the writ petition has been filed after 23 years from the date of death of the deceased employee and after about 14 years from the date when the petitioner has attained the age of majority.

4. It is settled position of law that any consideration of a claim for compassionate appointment has to be strictly in accordance with the policy regulating the same keeping in mind that it has to be made with a sense of urgency due to the sudden death of the bread winner leaving the family of the deceased in destituteness and penury. There can be no sustained urgency over the year. The object of the appointment is to provide immediate succor to the family of the deceased. The very fact that the petitioner has been able to sustain himself for about 23 years from the date of death of the deceased employee is sufficient to draw an inference that there is sufficient means in the family to sustain themselves.

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

1 2013 (12) SCC 179

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 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 Sewarage Board and Others v. T.T. Murali Babu**[3], the Supreme Court has clearly held that delay may have impact on others' ripened

---

2 (2007) 9 SCC 278
3 2014 (4) SCC 108

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 doesbring 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 February, 2019 claiming his candidatures whereas, cause of action arose in the year, 1996, and as such there is delay of about **23** years in filing the petition.

9. Accordingly, the petition deserves to be and is hereby dismissed on the ground of delay and laches only.

10. It is made clear that disposal of this writ petition would not preclude the petitioner in approaching the authorities on the administrative side and it would also not come in the way of the respondents in deciding the claim of the petitioner again on the administrative side.

Sd/-
(P. Sam Koshy)
Judge

inder