

HIGH COURT OF CHHATTISGARH AT BILASPURWPL No. 82 of 2019

Toran Singh Tamrakar S/o Late Sukhdev Prasad Tamrakar Aged About 51 Years R/o 108-G, Risali, Sector Bhilai, Tahsil And District - Durg Chhattisgarh.

---- **Petitioner**

Versus

Chief Executive Officer Bhilai Steel Plant, Through Department Manager Shri P.R. Deshmukh, Coke Oven, Bsp Bhilai, District - Durg Chhattisgarh.

--- **Respondents**

For petitioner	:	Shri, Manish Upadhyay, Advocate.
For Respondent	:	Dr. Saurabh Kumar Pande, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/04/2019

1. The Challenge in the present writ petition is to the orders passed by the Labour Court. Firstly, the order dated 13.05.2015, whereby the Labour Court found that the departmental enquiry conducted against the petitioner was in accordance with the principle of natural justice, which did not warrant for any interference. Secondly, the order 16.07.2015 whereby the Labour Court reached to the conclusion that there is no scope of interference to the order of punishment of removal from services inflicted upon the petitioner. Lastly, the order dated 12.02.2016 passed by the State Industrial Court, Raipur, in an appellate proceedings whereby the appeal preferred by the petitioner under the provisions of CGIR Act was rejected.
2. At the outset, this Court finds that the writ petition suffers from delay and laches. The fact which has to be considered for deciding this aspect is that the Labour Court vide its order dated 16.07.2015, found that the

punishment imposed by the management upon the petitioner was neither disproportionate nor was there any perversity in the enquiry, therefore had rejected the application under section 31 (3) of the CGIR Act.

3. The said order was subjected to challenge immediately by the petitioner in an appeal under section 65 of the CGIR Act before the state Industrial Court, Raipur, vide Civil Appeal No. 07/CIGR/Act/A/11/2015.

4. The learned Industrial Court, on due consideration of all the contentions which the petitioner had raised finally vide its judgment dated 12.02.2016 rejected the appeal holding that the finding arrived at by the Labour Court was proper legal and justified which does not warrant any interference.

5. Though, the Industrial Court rejected the appeal of the petitioner on 12.02.2016, the present writ petition has been filed challenging the same only on 18.03.2019 i.e. well over more than 3 years time. No plausible explanation has been given by the petitioner for not challenging the order of the Industrial Court promptly three years is a considerable long period for the writ Court to exercise the powers of judicial review under Article 226 of the Constitution of India. It is always expected that an aggrieved person should approach the writ Court at the earliest possible time.

6. Though, there is no period of time prescribed for approaching the High Court but it is a settled position of law for approaching the writ Court that the aggrieved person should have filed the writ petition within a reasonable period of time. Under no stretch of imagination can three years period be treated as a reasonable period for challenging the order of the Court below. What is also to be taken note is the fact that the petitioner had duly contested the case both before the Labour Court as well as before the Industrial Court and was fully aware of the developments and the orders passed by the two Courts below. In spite of

knowledge, if the petitioner does not challenge the order passed by the appellate Court for more than three years, it has to be presumed that the petitioner had acquiesced of his right to challenge the same. Now, after a period of more than 3 years, the petitioner again approaches this Court for testing the veracity of an order that was passed three years back. If such writ petitions are entertained then these would be a flood of petitions of similar nature filed and it would open up a pandora box particularly when the Courts are otherwise over burdened with pending cases.

7. The view of this Court stands fortified by the decision of the Supreme Court in the case of **Bhoop Singh V. Union of India** reported in (1992) 3 SCC 136 where in Paragraph-8 it has been held as under:-

“8. 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.”

8. Again, in the case of **Uttaranchal Forest Development Corpn. and another v. Jabar Singh and others**, reported in (2007) 2 SCC 112, the Supreme Court in Paragraph-43 held 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.”

9. Given the said facts, this Court is of the opinion that the writ petition suffers from delay and latches and the same deserves to be and is accordingly rejected.

Sd/-

(P. Sam Koshy)
JUDGE

jyoti