

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 4423 OF 2020**

- Amar Deep, S/o Suresh Chandra, Aged About 38 Years R/o Csf Unit, Kgps Bandipora, Nhpc Campus, Village - Karalpura, Post Office Bandipora, District Bandipora, State - Jammu Kashmir.

... Petitioner**Versus**

1. Union Of India, Through Director General, Central Industrial Security, Force At C.G.O. Complex, Lodhi Road, New Delhi.
2. Inspector General, CISF West Sector Headquarters, Navi Mumbai.
3. Deputy Inspector General, CISF Central Zone Headquarters, Bhilai, District Durg, Chhattisgarh.
4. Commandant, CISF 1st Reserve Battalion, Barwaha, District Khargone (M.P.)
5. S.P. Khilare, Deputy Commandant, CISF Unit, ASG, Mumbai.

... Respondents

For Petitioner	:	Mr. Himanshu Pandey, Advocate.
For Respondent-UOI	:	Mr. Surendra Kumar Dewangan, Advcoate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****23/11/2020**

1. Challenge in the present writ petition is to the orders dated 23.3.2017, 27.7.2017 and 18.12.2017, Annexure P-1, P-2 & P-3, respectively.
2. Vide the aforesaid three impugned orders, the Petitioner was inflicted with an order of punishment in reduction of salary by two stages for a period of two years with cumulative effect.
3. The factual details of the present case is that the Petitioner was working as Sub Inspector under the Respondents. In the year 2016, the Petitioner was posted at Mumbai (Maharashtra). There is said to be some untoward incident that took place on 1.5.2016. Subsequently, the Petitioner stood transferred to Barwaha, District Khargone (Madhya Pradesh) on 8.9.2016. In respect of the said incident that occurred on 1.5.2016, a departmental enquiry was conducted against the Petitioner and finally the Commandant issued an order for punishment of reduction in the salary by two stages for a period of two years with cumulative effect, on 23.3.2017 (Annexure P-1). The Petitioner meanwhile was transferred to Seepat, District Bilaspur (Chhattisgarh) on 23.4.2017. After the Petitioner came to Seepat, he preferred an appeal before the Appellate Authority, on 20.5.2017. The office of the Appellate Authority located at Bhilai (Chhattisgarh) rejected the same

vide order dated 27.7.2017 (Annexure P-2). Against the rejection of the appeal, the Petitioner preferred a revision petition before the Revisional Authority posted at Mumbai (Maharashtra), who was also having the charge of Central Zone where the Petitioner was working. The Revisional Authority also rejected the revision petition of the Petitioner on 18.12.2017 (Annexure P-3).

4. The present writ petition has been filed by the Petitioner challenging the three orders only on 30.9.2020 before the Chhattisgarh High Court. The fact which has to be taken note of at this juncture is that the Petitioner stood transferred to the State of Jammu & Kashmir in October, 2019 and subsequently he has also been transferred to the State of Rajasthan where he is presently posted. The present writ petition was filed when the Petitioner was posted in the State of Jammu & Kashmir.

A preliminary objection has been raised by the Respondents, that the Writ Petition not being maintainable on the ground of territorial jurisdiction, however, on going through the factual details as narrated above it clearly reflects that when the order of punishment was passed the Petitioner was posted at Barwaha, District Kharghone (Madhya Pradesh) which comes in the Central Zone and the Headquarter of the Central Zone is at Bhilai (Chhattisgarh). Likewise, it is also reflected that the appeal was preferred by the Petitioner to the Appellate Authority, when he was posted at Seepat, District Bilaspur (Chhattisgarh) which again comes under the Central Zone with its Headquarter at Bhilai (Chhattisgarh). The decision of the Appellate Authority on 27.7.2017 was also while the Petitioner was posted in the State of Chhattisgarh and the Appellate Authority also being posted in the office of the Appellate Authority also being in the State of Chhattisgarh. Subsequently, the revision petition that was preferred was before the Inspector General, CISF at Mumbai (Maharashtra) who was also the In-charge Inspector General of the Central Zone and the said Revisional Authority also passed an order on 18.12.2017 when also the Petitioner was posted at Seepat, District Bilaspur (Chhattisgarh).

5. All these facts would clearly reflect that the substantial part of the cause of action did arise within the territory of State of Chhattisgarh and therefore the objection of this Court not having territorial jurisdiction do not have much force.

6. However, this Court finds that the present writ petition does suffer from delay and laches. The three impugned orders were passed on 23.3.2017, 27.7.2017 and 18.12.2017 and the present writ petition has been filed after almost three years, on 30.9.2020. Though learned Counsel for Petitioner justifying the delay refers to a petition that the Petitioner pursued before the Delhi High Court and thereafter before the Supreme Court. However perusal of the relief clause of the writ petition that was filed before the Delhi High Court would reveal that the writ petition was not challenging the order of punishment dated 23.3.2017 or any of the Appellate Authority or the Revisional Authority order. The order of the Delhi High Court was subjected to challenge before the Supreme Court which again vide its order dated 9.1.2018 rejected the Special Leave Petition thereby the order of the Delhi High Court getting confirmed. However, the Supreme Court granted liberty to the Petitioner to pursue the representation/complaint that he had already made against some of the Officers of the CISF before the Inspector General and the said representation to be decided on merits. The said representation also subsequently stood rejected vide order dated 2.4.2019, copy of which was ultimately given to the Petitioner only in the month of August, 2019. Perusal of the representation and the order would also reflect that the representation/complaint that the Petitioner had preferred was also not challenging the punishment order, but it was specifically in respect of initiating appropriate action against one Shri S.P. Khilare, Deputy Commandant, CISF, who also is the Respondent No.5 in the present writ petition.

7. From the aforesaid facts, it evidently clear that the order of punishment as such for last three years has not been challenged by the Petitioner before any Court of law nor was there any representation filed by the Petitioner against the rejection of the representation by the Revisional Authority on 18.12.2017.

8. Given the said facts, this Court finds that the present writ petition suffers from delay and laches of about three years. The period of three years in a

disciplinary proceeding is a pretty long time for being challenged by a delinquent, particularly when he had already availed the channel of departmental remedies available to him, that is of preferring a departmental appeal as also revision before the Revisional Authority and all of which have been done promptly and all of which decided also, but yet the Petitioner did not challenge the proceeding any further.

9. As regards the relief sought for by the Petitioner before the Delhi High Court, it is evidently clear that the said writ petition, as would be evident from the relief clause mentioned in the order of the Delhi High Court, was not questioning the veracity of any of the punishment orders passed by the Respondents but was in respect of initiating action against Respondent No.5 with regard to the incident that took place on 1.5.2016. Moreover, it would also reflect that the dismissal of the writ petition by the Delhi High Court was even prior to the order of punishment imposed by the department. Thus, the Petitioner cannot take advantage of the petition filed by him even before the impugned order of punishment was passed, for condoning the delay in the filing of the present writ petition questioning the disciplinary action initiated by the Respondents almost three years back.

10. So far as 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 Hon'ble Supreme Court in case of "**State of Uttaranchal and Another Vs. Shiv Charan Singh Bhandari and Others**", reported in **2013 (12) SCC 179** in which the Supreme Court has declined to exercise extraordinary jurisdiction in case the petitioner invokes jurisdiction of the Court with inordinate delay, and held as under :

"In State of T.N. v. Seshachalam, 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."

11. Likewise, in the case of “**Uttaranchal Forest Development Corpn. And another Vs. Jabar Singh and others**” reported in **(2007) 2 SCC 112**, 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.”

12. Further, in the case of “**New Delhi Municipal Council Vs. Pan Singh and others**” reported in **(2007) 9 SCC 278**, the Hon'ble 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.)”

13. In the case of “**P. S. Sadasivaswamy Vs. State of Tamil Nadu**” reported in **(1975) 1 SCC 152**, 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.”

14. Very recently in the matter of “**Chennai Metropolitan Water Supply and Sewerage Board and Others Vs. T.T. Murali Babu**” reported in **2014 (4) SCC 108**, 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, 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.”

15. From the aforesaid legal position as it stands, this Court does not find any strong case made out by the Petitioner calling for an interference with the impugned orders and the present writ petition therefore deserves to be and is accordingly dismissed only on the ground of delay laches alone.

Sd/-
(P. Sam Koshy)
JUDGE