

**\* THE HONOURABLE SRI JUSTICE P. NAVEEN RAO**

**+ WRIT PETITION No.692 OF 2007**

% 23.01.2020

# P. Venkat Reddy S/o.Malla Reddy,  
Aged about 59 yrs, Occu : Ex-Driver,  
A.P.State Road Transport Corporation  
(called as APSRTC for short),  
Warangal-I Depot, R/o.Chilkanagar,  
Uppal, Hyderabad 500 039.

.. Petitioner

And  
\$ Depot Manager,  
A.P.S.R.T.C.,  
Warangal-I Depot, Warangal 506 001 & others.

.. Respondents

! Counsel for the petitioner : Sri P.Pradeep Kumar Reddy,

Counsel for respondents : 1.Sri B. Mayur Reddy, Learned  
Standing counsel for R.1 & R.2  
2. Learned Government Pleader  
For Labour for R.3.

< Gist :

> Head Note :

? Citations:

1. AIR 1955 SC 423
2. (2015) 15 SCC 602
3. (2006) 4 SCC 322
4. (1986) 4 SCC 566
5. (2014) 4 SCC 108

**IN THE HIGH COURT FOR THE STATE OF TELANGANA**

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**WRIT PETITION No.692 of 2007**

Between :

P. Venkat Reddy S/o.Malla Reddy,  
Aged about 59 yrs, Occu : Ex-Driver,  
A.P.State Road Transport Corporation  
(called as APSRTC for short),  
Warangal-I Depot, R/o.Chilkanagar,  
Uppal, Hyderabad 500 039.

.....Petitioner

And

Depot Manager,  
A.P.S.R.T.C.,  
Warangal-I Depot, Warangal 506 001 & others.

.....Respondents

DATE OF JUDGMENT PRONOUNCED : 23.01.2020

**SUBMITTED FOR APPROVAL:**

**HONOURABLE SRI JUSTICE P.NAVEEN RAO**

1. Whether Reporters of Local Newspapers : Yes  
may be allowed to see the Judgments ?
2. Whether the copies of Judgment may be : Yes  
marked to Law Reporters/Journals
3. Whether Their Lordship wish to : No  
see the fair copy of the Judgment ?

**THE HONOURABLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION No.692 OF 2007**

**DATED : 23.01.2020**

Between :

P. Venkat Reddy S/o.Malla Reddy,  
Aged about 59 yrs, Occu : Ex-Driver,  
A.P.State Road Transport Corporation  
(called as APSRTC for short),  
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.....Petitioner

And

Depot Manager,  
A.P.S.R.T.C.,  
Warangal-I Depot, Warangal 506 001 & others.

.....Respondents



The Court made the following:

**THE HONOURABLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION NO.692 OF 2007**

**ORDER:**

No representation on behalf of the petitioner. Heard Sri B.Mayur Reddy, learned Standing counsel for the respondent-Corporation.

2. As can be seen from the material averments, petitioner worked as driver in the respondent-Corporation. While he was in service, on the allegation of rash and negligent driving, which resulted in grievous injuries to the motor cyclist, who died on the way to hospital, disciplinary proceedings were initiated against him, resulting in imposing punishment of removal from service, by order dated 19.08.1992, which was affirmed by the appellate authority on 23.01.1993. Petitioner raised industrial dispute in I.D.No.175 of 1992 before the Industrial Tribunal-cum-Labour Court, Warangal (for short 'the Labour Court'). By Award dated 20.10.1994 the Labour Court set aside the punishment of removal from service, directed reinstatement of petitioner into service with continuity of service without back wages and further ordered to impose punishment of deferment of one annual grade increment with cumulative effect. In compliance of the Award passed by the Labour Court, petitioner was reinstated and on attaining the age of superannuation, he retired from service on 31.08.2006. To complete the narration of time line of events, charge sheet was laid against petitioner for the offences punishable under Sections 304-A and 337 of Indian Penal Code in C.C.No.621 of 1994 on the file of IV-Metropolitan Magistrate, Hyderabad. In the said criminal case, petitioner was

convicted by learned Magistrate and judgment was pronounced on 29.03.2001. However, in CrI.A.No.160 of 2001, the conviction was set aside.

3. Petitioner instituted this writ petition on 04.01.2007, challenging the Award claiming that he is entitled to all service benefits and also against imposing of punishment of deferment of one annual grade increment.

4. Learned Standing Counsel vehemently contended that Writ Petition is filed after twelve years of the Award and there is no worthwhile explanation for the delay in filing writ petition. He would submit that having enjoyed the benefits from the Award, he filed writ petition after his retirement and the same would amount to abusing the process of the Court.

5. The issue for consideration is whether petitioner is entitled to maintain the Writ Petition instituted after more than 12 years challenging the Award dated 20.10.1994, assuming that award of Labour Court is vitiated on several legal parameters.

6. Before considering this aspect it is also necessary to note that scope of exercise of power of judicial review under Article 226 of the Constitution of India is very limited, to consider on the jurisdiction of the Labour Court, perversity of the order and grave illegality in the manner in which proceedings were conducted by the Tribunal/Labour Court. The High Court do not sit as an appellate Court to re-evaluate the evidence on record and to come to a conclusion different from one arrived at by the Labour Court.

7. In **Sangram Singh v. Election Tribunal**<sup>1</sup>, Supreme Court delineated scope of exercise of power of judicial review under Article 226 of the Constitution of India against decisions of the Tribunals.

Supreme Court held:

"14. That, however, is not to say that the jurisdiction will be exercised whenever there is an error of law. The High Courts do not, and should not, act as courts of appeal under Article 226. Their powers are purely discretionary and though no limits can be placed upon that discretion it must be exercised along recognised lines and not arbitrarily; and **one of the limitations imposed by the Courts on themselves is that they will not exercise jurisdiction in this class of case unless substantial injustice has ensued, or is likely to ensue.** They will not allow themselves to be turned into courts of appeal or revision to set right mere errors of law which do not occasion injustice in a broad and general sense, for, though no legislature can impose limitations on these constitutional powers **it is a sound exercise of discretion to bear in mind the policy of the legislature to have disputes about these special rights decided as speedily as may be. Therefore, writ petitions should not be lightly entertained in this class of case.**"  
(emphasis supplied)

8. Though there is no time limit prescribed for institution of a Writ Petition by invoking Article 226 of the Constitution of India, it must be availed within a reasonable time. Merely because no time limit is prescribed a person can not knock the doors of this Court whenever he feels convenient to come to this Court. What is a reasonable time within which a person can avail the extra-ordinary jurisdiction of this Court depends on facts of a given case.

9. The law on this aspect is elucidated succinctly in the following decisions :

9.1. In **State of Jammu and Kashmir v. R.K. Zalpuri and others**<sup>2</sup>, the very issue of delay in instituting the writ petition after long lapse of time was considered. It was a case of dismissal and challenge was on the ground of violation of procedural safeguards incorporated into the Jammu & Kashmir Civil Services

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<sup>1</sup> AIR 1955 SC 423

<sup>2</sup> (2015) 15 SCC 602

(Classification, Control and Appeal) Rules. Disciplinary action resulted in imposing punishment of dismissal from service by order dated 6.9.1999. This was challenged by filing writ petition in the High Court on 18.2.2006. There was a delay of 7 years in filing writ petition.

9.2. The State Government raised objection on maintainability of writ petition on the ground of delay and laches. Without accepting this plea, punishment was set aside holding that Rule 34 of the Classification, Control and Appeal Rules was not complied. Even in the appeal the Division Bench has not considered objection on delay in filing writ petition. Hence, appeal before Supreme Court. Supreme Court held that the delay and laches were not satisfactorily explained and, therefore, writ petition was not maintainable.

9.3. Supreme Court reviewed the precedent decisions and held:

"20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corpn. v. Dosu Aardeshir Bhiwandiwalla [City and Industrial Development Corpn. v. Dosu Aardeshir Bhiwandiwalla, MANU/SC/8250/2008 : (2009) 1 SCC 168], wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus: (SCC p. 175, para 30)

"30. The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

- (a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;
- (b) the petition reveals all material facts;
- (c) the petitioner has any alternative or effective remedy for the resolution of the dispute;
- (d) person invoking the jurisdiction is guilty of unexplained delay and laches;**
- (e) ex facie barred by any laws of limitation;
- (f) grant of relief is against public policy or barred by any valid law; and host of other factors." (emphasis supplied)

10. In this regard reference to a passage from **Karnataka Power Corpn. Ltd. v. K. Thangappan**<sup>3</sup> would be apposite:

**"6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party."**

(emphasis supplied)

10.1. After so stating, the Supreme Court, by referring to the authority in **State of M.P. v. Nandlal Jaiswal**<sup>4</sup> restated the principle articulated in earlier pronouncements to the following effect:

**"9.... the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction."** It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring, in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction."

(emphasis supplied)

11. In **Chennai Metropolitan Water Supply and Sewerage Board v. T.T. Murali Babu**<sup>5</sup>, it is ruled thus:

**"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 scrutinise 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

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<sup>3</sup> (2006) 4 SCC 322

<sup>4</sup> (1986) 4 SCC 566

<sup>5</sup> (2014) 4 SCC 108

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." (emphasis supplied)

Supreme Court further held,

"26. In the case at hand, the employee was dismissed from service in the year 1999, but he chose not to avail any departmental remedy. **He woke up from his slumber to knock at the doors of the High Court after a lapse of five years**. The staleness of the claim remained stale and it could not have been allowed to rise like a phoenix by the writ court." (emphasis supplied)

12. Having regard to the fact that the writ petition is filed after twelve years, minimum that Court expects from petitioner is to explain the reasons for delay. In the affidavit filed in support of writ petition, no satisfactory explanation is offered as to why petitioner has not invoked the jurisdiction of this Court immediately after the Award was passed and waited till he retired from service. The affidavit is blissfully silent.

13. Taking due note of principles enunciated by the Hon'ble Supreme Court from the facts of this case, it is seen that Labour Court sets aside punishment of removal and orders imposing a smaller punishment on an allegation of rash and negligent driving resulting in death of a human being. It cannot be said that prescribing punishment of deferment of one annual grade increment as disproportionate to the delinquency alleged and proved and that Labour Court erred in not exercising the discretion properly warranting interference by this Court.

14. Having regard to the above, petitioner miserably failed in explaining the reasons for the delay of twelve years. It is appropriate to note that he enjoyed the fruits of the Award, continued in service till he attained the age of superannuation

and instituted this writ petition after his retirement. Thus, Court do not see bonafides in prosecuting the litigation after twelve years from the date of Award.

15. Having regard to the above, the writ petition is dismissed on the ground of inordinate delay and latches. Pending miscellaneous petitions, if any, shall stand closed.

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**P.NAVEEN RAO,J**

23<sup>rd</sup> January, 2020

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