

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**WA No. 510 of 2017**

{Arising out of Order dated 12/10/2017 passed in Writ Petition(S) No. 4800 of 2017 by the learned Single Judge}

- Sukhnandan Kolhapure S/o Shri Dev Singh, aged about 42 years, working on the post of Security Guard at C.G. Vidhan Sabha Secretariat, Zero Point, Raipur, District-Raipur C.G.

-----Appellant/Petitioner**VERSUS**

1. State of Chhattisgarh, through the Secretary, Chhattisgarh Vidhan Sabha, Mahanadi Bhawan, New Raipur, District Raipur (C.G.)
2. Additional Secretary Chhattisgarh Vidhan Sabha Secretariat, Chhattisgarh Vidhan Sabha Sachivalaya, Mahanadi Bhawan, New Raipur, District Raipur, C.G.

-----Respondents

For Appellant	: Mr. Prateek Sharma, Advocate
For Respondent 1/State	: Mr. Siddharth Dubey, Dy. Govt. Advocate
For Respondent 2	: None.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board**Per P.R. Ramachandra Menon, C.J.****13/01/2021**

1. Appeal arises from the verdict passed by learned Single Judge, whereby interference has been declined, to deal with the prayers raised in the writ petition.
2. Heard Mr. Prateek Sharma, learned counsel for the appellant as well as Mr. Siddharth Dubey, learned Deputy Government Advocate representing the State.
3. Sum and substance of the grievance is mainly with regard to the declaration of probation. Learned counsel for the appellant submits that the appellant was appointed to the post of Security Guard along with some others. Though their probation was declared earlier, appellant's probation came to be declared only on 07.11.2007. In fact, the probation of the

appellant was extended quite wrongly and contrary to the contents of ACRs, which, according to the appellant, was not communicated to him.

4. The appellant seeks for a direction to have the probation declared as Complete, as on 07.01.2006. The prayers in the writ petition are in the following terms:

“10.1 That the Hon'ble Court may kindly be pleased to allow the writ petition and be pleased to direct the respondents to pass an order to the effect that the probation of petitioner is came to and end from 07.01.2006.

10.2 That, the Hon'ble Court may kindly be pleased to direct the respondents to grant increment, higher pay and other benefit along with “Samayman Vetanman” to the petitioner from the date where from the benefit has been granted to similar situated employees.

10.3 This the Hon'ble Court may kindly be call for the records for its kind perusal which relates to subject matter of this petition.

10.4 Any other relief, which this Hon'ble Court may deem fit and proper, may also be passed in favour of the petitioner.”

5. Learned Single Judge observed that the petitioner was trying to revive a cause of action which was stale in all effects. The observations made by the learned Single Judge, in paragraph 2 of Annexure A/1 verdict, which is under challenge, give a clear picture as to how the grievance was dealt with and hence, we find it appropriate to have the same extracted below:

“2. Number of grounds have been urged in the petition to claim that the petitioner ought to be granted seniority from the original date and proper seniority is to be given in the Gradation list issued on 01-04-2013. In the considered opinion of this Court, the petition is liable to be dismissed on the ground of delay and laches. The order extending the period of probation of the petitioner was passed way back in the year 2006. The petitioner did not challenge the said order, as a consequence thereof, probation period of the petitioner was extended. On 07-11-2007, probation of the petitioner came to an end and he was confirmed. The date of confirmation did not restore original seniority to the petitioner. The petitioner did not challenge the same. Gradation list was issued on 01-04-2013 granting seniority

on the basis of extended probation and belated confirmation. The petitioner, after issuance of gradation list, has filed this petition after four years.

6. It is settled law that stale cause of action cannot be dealt with as a matter of course in exercise of jurisdiction under Article 226 of the Constitution of India. The power and jurisdiction vested in this Court is not to extend such relief to the persons who are not vigilant of their Rights and are virtually taking rest on armchair, unmindful of such rights and liberties. We find support from ruling rendered by the Apex Court in **Rabindranath Bose And Ors. vs The Union Of India (Uoi) And Ors** reported in **AIR 1970 SC 470**.
7. In the said circumstance, we are of the view that the finding and reasoning given by learned Single Judge to decline interference and in entertaining the prayers to give a declaration as to satisfactory completion of the probation as on 07.01.2006 (one and a half decade ago) is perfectly within the four walls of law and is not assailable under any circumstances.
8. Appeal fails and it is dismissed accordingly. However, we leave it open for the petitioner to pursue other appropriate means, if any, in accordance with law; which however will not confer any fresh cause of action before this Court in this regard.

Sd/-
(P.R. Ramachandra Menon)
 Chief Justice

Sd/-
(Parth Prateem Sahu)
 Judge