

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1701 of 2021

Prakash Chandra Prakash, aged about 43 years, Gender- Male, S/o Sri
Modnarayan Jha Resident of Village- Sohray, P.O.- Pandaul, P.S.- Sakari,
District- Madhubani, Bihar, PIN- 847234.

... .. Petitioner

Versus

1. The Union of India through the Home Secretary, Government of India,
Delhi.
2. The Director General, C.G.O. Complex, Lodhi Road, New Delhi.
3. The Secretary, Central Home Department, New Delhi.
4. The Inspector General of Central Reserve Police, Danapur Road, Danapur,
Patna.
5. The Additional Deputy Inspector General of Central Reserve Police,
C.R.P.F. Camp, Group Centre, Mokamaghat, District- Patna.
6. The Commandant, C.R.P.F. Camp, Group Centre, Mokamaghat, District-
Patna.
7. The Deputy Commandant, C.R.P.F. Unit Group Centre, Mokamaghat,
District- Patna, Bihar.

... .. Respondents

Appearance :

For the Petitioner : Mr.Kumod Kumar Shrivastaw, Adv.

For the UOI : Mr. Ram Anurag Singh, CGC

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 29-09-2022

Heard learned counsel for the petitioner and learned
counsel for the Union of India.



2. The writ application has been filed in January, 2021 for setting aside order dated 31-12-2007, passed by the Additional Deputy Inspector General of Police, as contained in Annexure-2 to the writ petition, compulsorily retiring the petitioner, due to unauthorized absence, for a period of 85 days in between 26-12-2006 to 20-03-2007. The petitioner has overstayed the aforesaid period after availing 10 days sanctioned leave. He has also sought reinstatement in service with full back wages.

3. The petitioner was serving as a G.D. Constable in the Central Reserve Police Force (for short 'C.R.P.F.'). It is his case that he had taken leave of 10 days for completing the last rites of his deceased grand mother and he fell ill after availing the leave of ten days. He has stated in his writ petition that he was suffering from many diseases i.e. pneumonia, chest pain and fever. He, therefore, could not resume his duty within stipulated time.

4. It is admitted position that for his unauthorized absence, he was subjected to proceedings by service of articles of charges. He has appeared before the Enquiry Officer and claims to have placed on record documents/prescriptions, in support of his illness. He complains that the doctor was not examined in the course of proceedings and, therefore, the entire proceedings was vitiated. He further submits that the punishment of compulsory



retirement from service awarded vide order dated 31-12-2007 is, thus, unsustainable.

5. The Union of India has filed a counter affidavit. At the very outset, learned counsel for the Union of India has raised the issue of the instant writ petition being barred by delay and laches and it is submitted that the writ petition has been filed 14 years after the punishment of compulsory retirement was awarded to the petitioner. There is no explanation whatsoever for this inordinate delay in approaching the writ Court. The writ petition is fit to be dismissed on this ground alone. It is further submitted that during his entire service period from 1999 to 2006 the petitioner remained absent five times. He was habitual in overstaying his leave.

6. The petitioner has produced two medical certificates and some telegram receipt pertaining to his illness, chest pain, high fever and breathlessness, which were clearly insufficient and not according to norms of authenticity. Both charges have been proved by the Enquiry Officer, after due opportunity to the petitioner and the punishment of compulsory retirement was found proportionate to the gravity of offence after *bona fide* consideration. The petitioner, as per submission of the learned counsel for the Union of India, has accepted the punishment and



not even availed the remedy of appeal under Rule-28 of the Central Reserve Police Force Rules, 1955 (for brevity 'Rules of 1955').

7. Having considered the rival submissions, this Court would find that the petitioner has miserably failed to make out any case for invoking the writ jurisdiction of this Court, 14 years after he was visited with the impugned order of compulsory retirement from service. The petitioner has annexed two prescriptions to meet the issue of delay. The first one is dated 15-03-2008 and the second one is dated 20-03-2018. In respect of the ten year period in between, there is nothing on record to show that the petitioner due to any medical condition, was incapacitated from approaching the writ Court. This Court would also take into consideration the fact that the writ petition has been filed about three years even after the last prescription dated 20-03-2018, relied upon the petitioner. The two prescriptions also do not manifest any medical incapacity justifying the delay of nearly 14 years in assailing the punishment of compulsory retirement, that also without availing the statutory remedy of appeal.

8. From the facts of the case, it is obvious that the petitioner has done nothing, but procrastinate. He has not availed remedy of appeal against the impugned order. He has also not



taken any legal remedy against the impugned order. Placing reliance on two prescriptions which are 10 years apart, he has sought to justify invoking of writ jurisdiction, under Article 226 of the Constitution of India, after a delay of 14 years, from issuance of the impugned punishment of compulsory retirement.

9. This Court, therefore, finds that the petitioner is not entitled to any relief under the equitable writ jurisdiction of this Court on the ground of delay and laches. The Hon'ble Apex Court has repeatedly held that the ground of delay and laches should not be lightly brushed aside. In the instant case, it is obvious that the petitioner has slept over his rights for years together and does not deserve any indulgence by this Court. The Court would take into consideration judgment of the Apex Court in the case of ***Chennai Metropolitan Water Supply and Sewerage Board and Ors v. T.T. Murali Babu*** reported in ***(2014)4 SCC 108***. Paragraph Nos. 16 and 17 of the judgment, relevant in this regard, are being reproduced:-

“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 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.

17. 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 scrutinise 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.”



10. For the reasons indicated hereinabove, the writ application is dismissed on the ground of delay and laches.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
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