

Court No. 4

FMA 575 of 2015

07.01.2022

(AD 18)

(S. Banerjee)

Dhananjoy Kumar Mondal

-Vs.-

The State of West Bengal & Ors.

with

CAN 1 of 2014

(Old CAN 7711 of 2014)

(Via Video Conference)

Mr. Gouranga Kumar Das

... for the appellant

The instant mandamus appeal has arisen from an order dated 13.05.2014 passed by the learned single judge in WP No. 13661(W) of 2014 whereby and whereunder the writ petition was dismissed on the ground of delay and laches.

The dispute pertains to the recruitment to the post of a primary school teacher in the 2009. The recruiting authority sought requisition from the Canning Employment Exchange, but the names of the eligible candidates were sponsored even beyond the year 1991. Subsequently the employment exchange withdrew the recommendation of the petitioner as the names to be recommended was decided till the year 1991. The examination thereafter was conducted and the petitioner was shown 'not selected' because his

name was subsequently found by the employment exchange to have been wrongly recommended.

There was a complete silence for more than four years as the writ petition could be filed in the year 2014. Though there is no prescribed period of limitation provided in the schedule to the Limitation Act, the stale claim or the claim which has perished by passage of time should not be permitted to be resuscitated. The Single Bench did not find any explanation offered in the writ petition for such delay and laches and in fact proceeded to dismiss the writ petition on such count alone.

As indicated above, though there is no prescribed period of limitation provided for filing an application under Article 226 of the Constitution of India, yet the writ petition may not be entertained on the ground of palpable delay and negligence attributed to the conduct of the writ petitioner. The writ petitioner who was sleeping in slumber and suddenly woke up when the rights have been created in favour of many, should not be encouraged. The only exception which can be carved out is where the fundamental rights have been infringed and, therefore, in such case the delay may take a backseat.

Since it was not a case of such nature and the entire dispute hinges on the withdrawal of the recommendation by the employment exchange, we do

not think that the petitioner can satisfy the exception made to such rule.

We thus do not find any infirmity or any illegality in the order passed by the Single Bench. The appeal lacks merit and is thus dismissed.

Connected application, if any, is accordingly disposed of.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)