

13 **25.03.
2022**
Ct. No. 04

Ab

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side.

WP.ST 20 of 2022

Kajal Kumar Routh
Vs.

The State of West Bengal and others.

Mr. Kamal Kanta Kar.

... for the petitioner.

Mr. Tapan Kumar Mukherjee,
Mr. Pinaki Dhole,
Mr. Rajat Dutta.

... for the respondent.

The stale claim is sought to be resuscitated after a lapse of ten years by filing the instant writ petition.

The disciplinary proceeding was initiated against the petitioner way back in the year 2001, which culminated into an order of dismissal. The disciplinary proceeding was initiated on the unauthorized absence for a pretty long time without any permission from the competent authority. Despite the order of dismissal passed in the year 2001, the petitioner appears to have accepted the same for nearly eight years and woke up in the year 2009 when he preferred an appeal before the appellate authority.

Curiously enough, the tribunal without going into the aforesaid aspect showed the empathy and sympathy by directing the authority to consider the said appeal and decide the same. The appellate authority upheld the order of the disciplinary authority, as it did not find any grounds for interference.

Subsequently, an approach was made to the tribunal and by the impugned order dated 25th September 2012, the tribunal application was dismissed with the categorical findings that the authority did not

commit any mistake by passing the dismissal order because of the long absence of the petitioner unauthorizedly.

Such order is sought to be challenged in the year 2022 by filing the instant writ petition and it is submitted that the petitioner was suffering from various diseases, i.e., rheumatic arthritis since 6th January 2021 and the Doctor certificate is also appended. It is further submitted that subsequently the father of the petitioner died and, therefore, the action could not have been taken. It also appears that the father died long back yet there is no explanation for such delay.

Though there is no period of limitation for filing an application under Article 226 of the Constitution of India provided under the Limitation Act but the High Court may refuse to exercise such discretion on the ground of inordinate delay in approaching. The prompt approach having not made and there is a considerable delay in raising a grievance may disentitle the petitioner to the discretionary power provided under Article 226 of the Constitution of India. The Court may refuse to exercise discretion under the aforesaid provision if the delay attributable to the conduct of the petitioner is patent. The delay and latches is one of the factors to be taken into consideration while the discretion is exercised by the High Court.

There is no sufficient explanation for such a long delay of nearly ten years in challenging the order of the tribunal, and, thus, we do not find that it is a fit case where the writ petition should be entertained.

The writ petition is dismissed.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)

