

16.11.2022

WPCT 98 of 2022

Court : 04
Item : DL-27
Matter : WPCT
Status : OP
Transcriber: NANDY

Sannyasi Charan Samanta
Vs.
The Union of India & Ors.

Mr. Bhudeb Bhattacharya, Senior Advocate
Ms. Indrani Pal, Advocate

.....for the Petitioner

Mr. Indrajit Dasgupta, Advocate
Ms. Debjani Ghosal, Advocate

.....for the Respondent/UoI

The claim which has been buried as far back as in the year 2007 is sought to be exhumed in the year 2022 and an explanation sought to be offered in the said application, does not appear to be convincing.

The instant writ-petition is filed in the year 2022 challenging an order passed by the Central Administrative Tribunal on 16.01.2007 in OA 311 of 2002 when the said order has been implemented and the petitioner derived benefit out of the same. By the impugned order the Tribunal directed reinstatement of the petitioner in service and the said order was challenged by the Union of India before this Court which could not yield any favourable result.

Pursuant to the impugned order, all emoluments attached to the said post were paid to the petitioner until the attainment on superannuation. It is only after a passage of time; the petitioner realizes that the portion of the order of the Tribunal ought to have been challenged as he has been deprived of the salary for the period he had not worked. The explanation for the delay is peculiar in the sense that there has been a

considerable lapse on the part of the petitioner in perusing the case. The plea of the COVID having struck globally and paralyzed the normal life to a great extent and to treat the same as sufficient cause for not approaching the Court promptly, are sought to be projected affront.

As indicated above, the petitioner without any demur accepted the order or reinstatement and served for four years thereafter and obviously after getting the retiral benefits admissible to him, he wanted to have more money on account of salary for which he did not work. The explanation is not convincing and, therefore, we do not find that the petitioner was diligent and careful in ventilating the grievances and/or augmenting the cause shown in the instant writ-petition.

We are not unmindful of the law that there is no prescribed period for filing an application under Article 226 of the Constitution of India but equally we cannot overlook the law laid down through judicial pronouncement that the delay and laches attributable to the litigation can be a ground for rejection to an application under Article 226 of the Constitution. A person cannot approbate and reprobate at the same time. He took advantage of the impugned order and sought to challenge a portion thereof after attaining superannuation taking a plea of unavailability of the lawyer upon whom he reposed confidence.

We thus find that there is a gross delay in approaching the Court. In absence of the convincing explanations, we do not find any justification in exercising the discretion conferred upon the High Court under Article 226 of the Constitution of India.

The writ-petition being **WPCT 98 of 2022** is **dismissed**. No order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)