

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10586 OF 2017

SADASHIV BABULAL PAWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. K.D. Mote, Advocate for petitioner;
Mr. A.S. Shinde, AGP for respondent no. 1;
Mr. V.S. Bedre, Advocate for respondent no. 3
...

**CORAM : DIPANKAR DATTA, CJ.
AND
SMT. VIBHA KANKANWADI, J.**

DATE : NOVEMBER 16, 2022

PC :

The petitioner retired from service as a teacher of a municipal school on 31st March, 2009. It is as late as on 6th June, 2017, that he has invoked the writ jurisdiction of this Court claiming benefit of time bound promotion.

2. Mr. Mote, learned advocate for the petitioner contends that the relevant Government Resolutions were issued extending benefit of time bound promotion to the teachers of municipal schools only after intervention by this Court on a writ petition which was decided in 2004. Thereafter, the petitioner went on submitting representations before the authority concerned but such representations not having been decided finally, he was left with no other alternative but approach this Court.

3. We are not impressed by the submissions of Mr. Mote. Admittedly, the relevant Government Resolution extended benefits of time bound promotion to municipal teachers in 2004. During the next five years and till the date of retirement, i.e., 31st March, 2009, the petitioner could have approached this Court with a writ petition seeking benefit of time bound promotion. No such efforts were made. His ultimate approach in 2017, without explaining the abnormal and unreasonable delay, has to be seen as an important factor disentitling him to relief in the extraordinary constitutional writ jurisdiction.

4. The contention of Mr. Mote that the petitioner was submitting representations one after the other, does not advance his case further. Decisions of the Supreme Court are legion that repeated representations neither extend the cause of action for enforcing a right under Article 226 nor the period of limitation, wherever applicable. The delay and laches in invoking the writ jurisdiction cannot be explained by referring to the act of the petitioner submitting repeated representations on the same issue although the inaction/omission of the respondent to consider such representations could sufficiently be viewed as an implied refusal to address the claim.

5. At this stage, a prayer is made by Mr. Mote for a direction on the respondents to consider the petitioner's representation. We regret, such a direction cannot be routinely passed in view of the decision in **Union of India vs. M.K. Sarkar**, reported in **(2010) 2 SCC 59**, where the Supreme Court sounded caution in the following words:

"16. A court or tribunal, before directing 'consideration' of a claim or representation should examine whether the claim or representation is with reference to a 'live' issue or whether it is with reference to a 'dead' or 'stale' issue. If it is with reference to a 'dead' or 'stale' issue or dispute, the court/tribunal should put an end to the matter and should not direct consideration or reconsideration. If the court or tribunal deciding to direct 'consideration' without itself examining the merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and laches. Even if the court does not expressly say so, that would be the legal position and effect."

6. Since the petitioner has approached the Court with a stale claim and there is also gross delay and laches, we decline interference. The writ petition stands dismissed. No costs.

[SMT. VIBHA KANKANWADI, J.]

[CHIEF JUSTICE]

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