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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.6824 of 2022

D.Indira

... Petitioner

vs.

1.The Registrar of Co-operative
Societies, (Housing), No.48, Ritherton Salai,
Veppery, Chennai - 600 007.

2.The President, Sembakkam Co-operative Housing
Society, No.77, Velacherry Main Road,
Rajakizhpakkam, Selaiyur,
Chennai - 600 073.

... Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying for issuance of a Writ of
Mandamus, directing the 2nd respondent to permit the petitioner
to join duty as Office Assistant in the 2nd respondent society by
disbursing the arrears of salary.

For Petitioner : Mrs.R.Hemalatha

For R1 : Mrs.S.Anitha
Special Government Pleader

For R2 : Mr.L.S.M.Hassan Fizal
Additional Government Pleader

O R D E R

This writ petition has been filed seeking to issue a Writ of
Mandamus directing the 2nd respondent to permit the petitioner
to join duty as Office Assistant in the 2nd respondent society
and to disburse arrears of salary.



2. The case of the petitioner in brief:

The petitioner had discharged her duty as Office Assistant in the office of the second respondent from the year 2003, however, they prevented her to put her signature in the Attendance Register, since her service is not a regularised one and she signed in a separate book. While that being so, on 15.07.2019, the second respondent prevented the petitioner to put her signature in the attendance book and also not allowed to do her duty, stating that, she did not report duty from 01.07.2019. But they did not give any written order terminating the service of the petitioner. The petitioner made representations on 24.02.2021 and 09.03.2021 requesting to reinstate her in duty, but the second respondent not considered the same. Though the petitioner approached the Deputy Commissioner of Labour, the second respondent had not cooperated for compromise and the Deputy Commissioner of Labour has filed failure report on 14.02.2021. Hence, this writ petition.

3. It is the contention of the petitioner that, she was working as Office Assistant in the office of the second respondent from the year 2013 and she was not allowed to put her signature in the attendance register from the year 2013 and on 15.07.2019 the second respondent has not allowed the petitioner to attend duty. But, the petitioner did not approach the concerned authority seeking remedy immediately and she slept over the matter for all the years. Only on 02.07.2021, the petitioner approached the Deputy Commissioner of Labour seeking remedy and thereafter, she made representations on 09.03.2021 before the second respondent.

4. At this juncture, it is useful to refer to the judgments of the Hon'ble Apex Court and the Hon'ble Division Bench of this Court. The Hon'ble Apex Court, in a case, reported in 1994 SCC, Supl.(2) 195 [Ex-Capt. [Harish Uppal vs. Union of India](#)), has held as follows;

'8. The petitioner sought to contend that because of laches on his part, no third party rights have intervened and that by granting relief to the petitioner no other person's rights are going to be affected. He also cited certain decisions to that effect. This plea ignores the fact that the said consideration is only one of the considerations which the court will take into account while determining whether a writ petition suffers from laches. It is not the only consideration.



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It is a well-settled policy of law that the parties should pursue their rights and remedies promptly and not sleep over their rights. That is the whole policy behind the Limitation Act and other rules of limitation. If they choose to sleep over their rights and remedies for an inordinately long time, the court may well choose to decline to interfere in its discretionary jurisdiction under Article 226 of Constitution of India and that is what precisely the Delhi-High Court has done. We cannot say that the High Court was not entitled to say so in its discretion."

5. The Hon'ble Division Bench of this Court, in the case of S.Vaidhyanathan Vs.Government of Tamil Nadu reported in 2018 SCC OnLine, in para 14, it is held as under ;

"14. There is an inordinate delay and laches on the part of the appellant. What is laches is as follows:

"Laches or reasonable time are not defined under any statute or Rules. "Laches" or "Lashes" is an old french word for slackness or negligence or not doing. In general sense, it means neglect to do what in the law should have been done for an unreasonable or unexplained length of time. What could be the laches in one case might not constitute in another. The laches to non-suit, an aggrieved person from challenging the acquisition proceedings should be inferred from the conduct of the land owner or an interested person and that there should be a passive inaction for a reasonable length of time. What is reasonable time has not been explained in any of the enactments. Reasonable time depends upon the facts and circumstances of each case."

In para 16 of the judgment cited supra, it is held as under;

16. Delay defeats discretion and loss of limitation destroys the remedy itself. Delay amounting to laches results in benefit of discretionary power being denied on principles of equity. Loss of limitation resulting into depriving of the remedy, is a principle based on public policy and utility and not equity alone....."

6. In Karnataka Power Corpn. Ltd. v. K.Thangappan reported in (2006) 4 SCC 322, the Hon'ble Supreme Court, at Paragraph 6, held as follows:





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+1cc to M/s.C.Prakasam, Advocate Sr.19857

+1cc to Mr.L.S.M.Hassan Fizal, Advocate Sr.20181

+1cc to the Government Pleader Sr.20314

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srg 07/04/2022