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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-22409-2023
Date of Decision:21.11.2023

- 1)
- KAMALJIT SINGH

..... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

..... Respondents
- 2)
- CWP-22585-2023

ISHWAR CHANDER

..... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

..... Respondents
- 3)
- CWP-22604-2023

GURPINDER SINGH

..... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

..... Respondents
- 4)
- CWP-22608-2023

NAVEEN SANDAL

..... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Akhilesh Vyas, Advocate with
Mr. Nirmal Sharma, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

Mr. Gagandeep Singh Wasu, Advocate
for respondents No.2 to 4.

JAGMOHAN BANSAL, J. (Oral)

1. By this common order CWP-22409-2023, CWP-22585-2023, CWP-22604-2023 and CWP-22608-2023 are disposed of since issue involved in all the petitions and prayer sought are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-22409-2023.

2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondents to appoint the petitioner at the appropriate post.

3. The petitioner during 2009-2010 was appointed an apprentice by respondent. The petitioner completed apprenticeship training which was of 1 year. The respondent did not appoint the petitioner as regular or contractual employee. The petitioner remained silent till October' 2020. On 26.10.2020, the petitioner sent a representation to the respondents to consider his case for the appointment at an appropriate post.

4. Learned counsel for the petitioner submits that petitioner had undergone apprenticeship training with respondent, thus, petitioner is a trained employee and respondent should consider case of the petitioner for the appointment.

5. Learned counsel for the respondents submits that petitioner cannot claim appointment as a matter of right. The petitioner is relying upon Section 22 of Apprenticeship Act, 1961 which specifically provides that it shall not be obligatory on the part of the employer to offer

employment to any apprentice who has completed the period of his apprenticeship training nor it shall be obligatory on the part of the apprentice to accept an employment with employer. Section 22 of the Act reads as:

“22 Offer and acceptance of employment. -

(1) It shall not be obligatory on the part of the employer to offer any employment to any apprentice who has completed the period of his apprenticeship training in his establishment, nor shall it be obligatory on the part of the apprentice to accept an employment under the employer.

(2) Notwithstanding anything in sub-section (1), where there is a condition in a contract of apprenticeship that the apprentice shall, after the successful completion of the apprenticeship training, serve the employer, the employer shall, on such completion, be bound to offer suitable employment to the apprentice, and the apprentice shall be bound to serve the employer in that capacity for such period and on such remuneration as may be specified in the contract:

Provided that where such period or remuneration is not, in the opinion of the Apprenticeship Adviser, reasonable, he may revise such period or remuneration so as to make it reasonable, and the period or remuneration so revised shall be deemed to be the period or remuneration agreed to between the apprentice and the employer.

6. In the contract the apprenticeship executed between the parties, there was no condition that employer would offer suitable employment to the apprentice.

7. The petitioner in 2009 was appointed apprentice for one year. Post completion of apprenticeship, he opted to remain silent for about 12 years and filed representation on 26.10.2020 with respondents. The petitioner has approached this Court after the expiry of 13 years from the date of cause of action, if any.

8. Learned counsel for the petitioner expressed his inability to explain reason of long delay of 13 years except to say that petitioner had filed representation with respondents.

9.. In ***Eastern Coalfields Ltd. v. Dugal Kumar (2008) 14 SCC 295***, supreme court has considered scope of interference in case of delay and laches. Court has held:

“24. As to delay and laches on the part of the writ petitioner, there is substance in the argument of learned counsel for the appellant Company. It is well settled that under Article 226 of the Constitution, the power of a High Court to issue an appropriate writ, order or direction is discretionary. One of the grounds to refuse relief by a writ court is that the petitioner is guilty of delay and laches. It is imperative, where the petitioner invokes extraordinary remedy under Article 226 of the Constitution, that he should come to the court at the earliest reasonably possible opportunity. Inordinate delay in making the motion for a writ is indeed an adequate ground for refusing to exercise discretion in favour of the applicant.”

10. In ***Tilokch and Motich and v. H.B. Munshi (1969) 1 SCC 110*** and ***Rabindranath Bose v. Union of India (1970) 1 SCC 84***, Supreme Court has ruled that even in cases of violation or infringement of fundamental rights, a writ court may take into account delay and

laches on the part of the petitioner in approaching the court and if there is gross or unexplained delay, the court may refuse to grant relief in favour of such petitioner.

11. In **Chennai Metropolitan Water Supply & Sewerage Board V. T.T. Murali Babu (2014) 4 SCC 108**, Supreme Court has ruled:

‘16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant—a litigant who has forgotten the basic norms, namely, ‘procrastination is the greatest thief of time’ and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.’

12. In **Union of India v. N. Murugesan, (2022) 2 SCC 25**, court has observed that a neglect on the part of a party to do an act which law requires must stand in his way for getting the relief or remedy. The Court

laid down two essential factors i.e. first, the length of the delay and second, the developments during the intervening period. Delay in availing the remedy would amount to waiver of such right. Relevant extracts of the judgment read as:

“20. The principles governing delay, laches, and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct elements. One can say that delay is the genus to which laches and acquiescence are species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create non-consideration of condonation in certain circumstances. They are bound to be applied by way of practice requiring prudence of the court than of a strict application of law. The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the court.

21. The word “laches” is derived from the French language meaning “remissness and slackness”. It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.

22. Two essential factors to be seen are the length of the delay and the nature of acts done during the

interval. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy.”

13. Apart from delay on the part of petitioner, it is further apt to notice that Section 22 of Apprenticeship Act, 1961 categorically provides that it is not an obligation on the part of employer to offer employment to any apprentice. The petitioner is not claiming that as per contract executed between the parties, there was covenant that he would be offered suitable employment on the completion of training.

14. In the wake of aforesaid discussion and findings, this Court is of the considered opinion that present petitions deserve to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

21.11.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>