



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of order : 23rd August, 2023**

+ **W.P.(C) 6332/2018**

RAMAN KUMAR & ORS Petitioners

Through: **Ms.Sriparna Chatterjee and
Mr.Soumitra Chatterjee, Advocates**

versus

GOVERNMENT OF NCT OF DELHI & ORS Respondents

Through: **Mrs.Avnish Ahlawat, Standing
Counsel for GNCTD with Mr.Nitesh
K.Singh, Ms.Laavanya Kaushik,
Ms.Aliza Alam and Mr.Mohnish
Sehrawat, Advocates for GNCTD**

**CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH**

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant writ petition under Article 226 of the Constitution of India has been filed on behalf of petitioners seeking the following reliefs:-

“a) pass an order/direction or writ in the nature of Mandamus directing the respondents to implement the order dated 07.11.2001 and 18.11.2005 passed by this Hon'ble High Court by absorbing the petitioners against the vacant Group-C posts existing in the Department of Social Welfare and Department of Women and Child Development and or any other Department, Society, Autonomous Body under the Government of NCT of



Delhi; and/or

b) pass an order/direction or writ in the nature of certiorari setting aside the impugned order/letter dated 3.11.2016 passed by the Respondent; and/or

c) pass any such other order / direction, which this Hon'ble Court deems fit and proper in the interest of justice”

2. The factual matrix of the present petition has been recapitulated herein below:

- a. The petitioners were initially working in Group – C posts as work assistant (demonstrator and Fitter) on casual basis in the Delhi Energy Development Agency which is an undertaking of the Government of NCT of Delhi.
- b. The service of the petitioners was discontinued *vide* an order dated 31st June 1998, on the ground that the same were not required any longer. Thereafter, the petitioners along-with other similarly placed persons approached this Court by way of filing writ petition bearing Nos. 5418/1998, and 410/1998.
- c. During the pendency of the said writs, the petitioners herein were absorbed in the department of Social Welfare, Government of NCT of Delhi against Group – D posts, in the year 2000.
- d. Subsequently, the aforesaid writs were disposed of *vide* order dated 7th November 2001, whereby, the claim for regularisation was dismissed and this Court had directed the



respondents to prepare a list containing the name of the petitioners who were working in Group – C & D, and the said list was to be circulated in the various departments, autonomous bodies & societies, and the Government of NCT of Delhi. It was further directed by the Court that the name of the persons included in the list were to be given preference while filling up the future vacancies in the various departments under the Government of NCT of Delhi.

- e. Thereafter, the petitioners had filed a contempt petition bearing No. 363/2002, seeking charge of contempt against the respondents for not complying with the order of this Court. This Court while adjudicating the said contempt petition reiterated the earlier directions of this Court by passing the order dated 18th January 2005, thereby, directing the respondents to circulate the names of the petitioners, by preparing a supplementary list.
- f. Consequently, *vide* letter dated 12th December 2005, the respondent addressed the Principal Secretaries, Head of the Departments and the Heads of PSUs/Autonomous Bodies, Corporations, etc. under the Government of NCT of Delhi, requesting them to comply with the order of this Court.
- g. Afterwards, the petitioners *vide* RTI applications dated 14th February 2011, 21st March 2011 and 31st May 2011, had



sought information regarding the vacancies at various departments. Further on 7th January 2015, the petitioner No. 3 had made representation requesting the Director of Department of Social Welfare, to consider them for appointment against Group – C posts as per the directions of this Court in its order dated 7th November 2001. The respondents in their response made on 3rd November 2016, to the above said representation, had stated that sufficient efforts have been taken by them and therefore, no further action is pending for complying with the orders of this Court.

- h. The petitioners, being aggrieved by the inaction on the part of the respondents have approached this Court seeking the relief of quashing of letter dated 3rd November 2016, issued by the Directorate of Social Welfare and also seeking directions to the respondents to comply with the orders dated 7th November 2001, and 18th November 2005.

3. Learned counsel appearing on behalf of the petitioners submitted that the petitioners have approached this Court in pursuance to the inaction on the part of the respondents to absorb the petitioners against Group – C posts.

4. It is submitted that this Court in writ petition bearing Nos. 5418/1998 and 410/1998, and in contempt petition bearing No. 363/2002, *vide* order dated 7th November 2001, and 18th January 2005, respectively, had directed the respondents to prepare a list of the name of the petitioners and similarly



other placed persons, and to circulate the same to its different departments.

5. It is submitted that this Court had also given directions that in case there are vacancies against the Group – C posts, the names circulated in the list has to be given preference for such appointments.

6. It is submitted that the petitioners have been ignored by the respondents till date despite the petitioners being entitled or absorption in Group – C posts, in terms of the above said orders.

7. It is submitted that as per the order of this Court, the Principal Secretary, Government of NCT of Delhi, was directed to monitor the absorption of the petitioners on regular basis till they are suitably absorbed and the respondents have utterly failed in complying with the said directions.

8. It is submitted that the petitioners have tried their level best to forward their resume to the different departments under the Delhi Government wherever, vacancies arose or existed. However, the respondents never took any efforts to follow up the same or to ensure that no objections were raised by those departments/autonomous bodies while considering the petitioners as per the order of this Court.

9. It is submitted that as per the response dated 14th February 2011, and 21st March 2011, received against the petitioners' RTI application, it is evident that there have been vacant posts at various departments under the Government of NCT of Delhi, such as Delhi Jal Board, Delhi Vidyut Board, Irrigation and Flood Control Department etc. Despite such vacancies, the petitioners are not being considered for absorption into the Group – C posts.

10. It is submitted that due to the inaction on the part of the respondents



for such a long period of time, the petitioner No. 3 had to make representation on 7th January 2015. Further, the response against the said representation, made by the respondents *vide* letter dated 3rd November 2016, is in complete disregard and violation of the direction of this Court passed in the aforementioned orders as no conscious effort has ever been taken by the respondents to ensure the absorption of the petitioners which was the true intent of the order of this Court.

11. It is submitted that in view of the foregoing submissions, the instant petition may be allowed and directions as prayed for be issued in favour of the petitioners.

12. *Per Contra* learned counsel appearing on behalf of the respondents has vehemently opposed the instant petition and submitted that the same deserves to be dismissed on the preliminary ground of delay and laches.

13. It is submitted that the present petition has been filed by the petitioners at a belated stage of 13 years i.e., after the passing of the order dated 18th November 2005. The same is, thereby, hopelessly barred by time.

14. It is submitted that the respondents had already circulated the list *vide* a letter dated 12th December 2005, which was in compliance of the directions passed by this Court and even though the petitioners had any grievances, the same could have been raised at the relevant time, but doing so after such an inordinate delay makes the instant petition non-maintainable.

15. It is further submitted that even if the petitioners had any grievances with regard to their non-absorption or non-consideration, by the various



departments to whom the said list was circulated. The said grievances could have been raised by the petitioners against the concerned department at the relevant time, but the same cannot be done after an unreasonable delay of 13 years.

16. It is submitted that the petitioners have concealed the fact that the order dated 7th November 2001, does not indicate that the petitioners were to be accommodated and regularized in Group – C posts. The directions were specifically with regard to the circulation of the list to various departments under the control of Government of NCT of Delhi.

17. It is submitted that the petitioner No. 1 was already absorbed in Group – D post, and the other petitioners' names were forwarded to other departments such as Irrigation and Flood Control, Delhi Jal Board and Chief Minister's Office. Hence, the orders dated 7th November 2011, and 18th November 2005, have already been complied by the respondents.

18. It is submitted that the petitioners were absorbed in Group – D posts and in light of order dated 18th November 2005, their names were also circulated to other Departments. Therefore, nothing more was required to be done on behalf of the respondents to comply with the directions passed by this Court.

19. It is further submitted that in any case, Group – D posts have been declared as 'Multitasking Staff under Group – C posts' *vide* a DoPT order dated 23rd December 2013, and since both the Groups stand merged, the petitioners cannot seek any directions with respect to the orders dated 7th November 2001, and 18th November 2005.



20. It is submitted that in view of the averments made hereinabove, the present petition is liable to be dismissed on the short ground of delay and laches.

21. Heard learned counsel for the parties and perused the material on record.

22. At the outset this Court is of the view that the present petition has been filed after a considerable delay of 13 years. The said ground of delay, as also averred by the respondents, in approaching this Court is required to be dealt with first because the same raises an issue on the aspect of maintainability of the instant petition.

23. The law in regard to the delay and laches is well settled. It is a fundamental principle in the administration of justice that the Courts will aid those who are vigilant and who do not sleep on their rights. Basically, if the party who is seeking reliefs moves the plea after a considerable delay and is otherwise guilty of laches, the Courts, in such circumstances, would refuse to exercise the writ jurisdiction in favour of that party. The said principle is also supported by the Hon'ble Supreme Court in the judgment of *Tilokchand Motichand v. H.B. Munshi*, (1969) 1 SCC 110 and *Rabindranath Bose v. Union of India*, (1970) 1 SCC 84.

24. Further, in another judgment passed by the Hon'ble Supreme Court in *State of M.P. v. Bhailal Bhai*, 1964 SCC OnLine SC 10, it has been held that the maximum period defined to initiate a civil action before a Civil Court to seek a relief may ordinarily be taken to be a reasonable standard limitation period by which delay in seeking the remedy under Article 226 of



the Constitution of India, can be measured. The Court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action. However, in the event the delay is more than the period prescribed, it will almost always be proper for the Court to hold that it is unreasonable.

25. The Hon'ble Supreme Court in the judgement of ***Union of India v. N. Murugesan***, (2022) 2 SCC 25, on the aspect of delay and laches in exercising the writ jurisdiction has discussed on the above said aspect in detail, thereby, reaffirming all its previous views. It held as follows:

“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.

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28. We would not dwell deep into the extraordinary and discretionary nature of relief under Article 226 of the Constitution of India. This principle is to be extended much more when an element of undue delay, laches and acquiescence is involved. The following decisions of this Court would suffice: 28.1.U.P. Jal Nigam v. Jaswant Singh [U.P. Jal Nigam v. Jaswant Singh, (2006) 11 SCC 464 : (2007) 1 SCC (L&S) 500] : (SCC pp. 469-70, paras 8-11)

“8. Our attention was also invited to a decision of this Court in State of Karnataka v. S.M. Kotrayya [State of Karnataka v. S.M. Kotrayya, (1996) 6 SCC 267 : 1996 SCC (L&S) 1488] . In that case the respondents woke up to claim the relief which was granted to their colleagues by the Tribunal with an application to condone the delay.



The Tribunal condoned the delay. Therefore, the State approached this Court and this Court after considering the matter observed as under : (SCC p. 268)

‘Although it is not necessary to give an explanation for the delay which occurred within the period mentioned in sub-section (1) or (2) of Section 21, explanation should be given for the delay which occasioned after the expiry of the aforesaid respective period applicable to the appropriate case and the Tribunal should satisfy itself whether the explanation offered was proper. In the instant case, the explanation offered was that they came to know of the relief granted by the Tribunal in August 1989 and that they filed the petition immediately thereafter. That is not a proper explanation at all. What was required of them to explain under sub-sections (1) and (2) was as to why they could not avail of the remedy of redressal of their grievances before the expiry of the period prescribed under sub-section (1) or (2). That was not the explanation given. Therefore, the Tribunal was wholly unjustified in condoning the delay.’

9. Similarly in Jagdish Lal v. State of Haryana [Jagdish Lal v. State of Haryana, (1997) 6 SCC 538 : 1997 SCC (L&S) 1550] this Court reaffirmed the rule that if a person chose to sit over the matter and then woke up after the decision of the court, then such person cannot stand to benefit. In that case it was observed as follows : (SCC p. 542)

‘The delay disentitles a party to discretionary relief under Article 226 or Article 32 of the Constitution. The appellants kept sleeping over their rights for long and woke up when they had the impetus from Virpal Singh Chauhan



case [Union of India v. Virpal Singh Chauhan, (1995) 6 SCC 684 : 1996 SCC (L&S) 1] . The appellants' desperate attempt to redo the seniority is not amenable to judicial review at this belated stage.'

10. *In Union of India v. C.K. Dharagupta [Union of India v. C.K. Dharagupta, (1997) 3 SCC 395 : 1997 SCC (L&S) 821] it was observed as follows : (SCC p. 398, para 9)*

'9. We, however, clarify that in view of our finding that the judgment of the Tribunal in R.P. Joshi [R.P. Joshi v. Union of India, OA No. 497 of 1986, decided on 17-3-1987 (CAT)] gives relief only to Joshi, the benefit of the said judgment of the Tribunal cannot be extended to any other person. The respondent C.K. Dharagupta (since retired) is seeking benefit of Joshi case [R.P. Joshi v. Union of India, OA No. 497 of 1986, decided on 17-3-1987 (CAT)] . In view of our finding that the benefit of the judgment of the Tribunal dated 17-3-1987 could only be given to Joshi and nobody else, even Dharagupta is not entitled to any relief.'

11. *In State of W.B. v. Tarun K. Roy [State of W.B. v. Tarun K. Roy, (2004) 1 SCC 347 : 2004 SCC (L&S) 225] their Lordships considered delay as serious factor and have not granted relief. Therein it was observed as follows : (SCC pp. 359-60, para 34)*

'34. The respondents furthermore are not even entitled to any relief on the ground of gross delay and laches on their part in filing the writ petition. The first two writ petitions were filed in the year 1976 wherein the respondents herein approached the High Court in 1992. In between 1976 and 1992 not only two writ petitions had been decided, but



one way or the other, even the matter had been considered by this Court in Debdas Kumar [State of W.B. v. Debdas Kumar, 1991 Supp (1) SCC 138 : 1991 SCC (L&S) 841] . The plea of delay, which Mr Krishnamani states, should be a ground for denying the relief to the other persons similarly situated would operate against the respondents. Furthermore, the other employees not being before this Court although they are ventilating their grievances before appropriate courts of law, no order should be passed which would prejudice their cause. In such a situation, we are not prepared to make any observation only for the purpose of grant of some relief to the respondents to which they are not legally entitled to so as to deprive others therefrom who may be found to be entitled thereto by a court of law. ' ”

26. The Court is of the view that an application for leave of judicial review should be made promptly. If the same is made at a belated stage, it may be rejected. It is well settled that under Article 226 of the Constitution of India, 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 of India, that he should approach the court at a reasonably possible opportunity.

27. This Court is also of the considered view that inordinate delay in approaching a writ Court is indeed an adequate ground for refusing to exercise discretion in favour of the applicant.



28. Adverting to the issue in the instant petition, this Court has observed that a Coordinate Bench of this Court had passed the directions to the respondents to prepare a list containing name of the petitioners and other similarly placed persons, and to circulate the same to different departments and bodies which are under the control of the Government of NCT of Delhi, for absorption of the petitioners in Group – C post.

29. Thereafter, the petitioners had filed a contempt petition bearing No. 363/2002, seeking the proceedings of contempt to be initiated against the respondents for not complying with the order dated 7th November 2001. The Coordinate Bench of this Court while adjudicating upon the said contempt petition passed the order dated 18th January 2005, reiterating the directions enumerated in the order dated 7th November 2001.

30. It is observed that after the passing of the said order of the year 2005, the petitioners continued to work in the group – D post, to which they were absorbed after their initial termination.

31. Upon perusal of the contents of the petition and the annexures appended thereto, it is evident that the petitioners have not made any representations or approached the concerned authorities to seek any relief. It is only in the year 2011, that the petitioners had filed RTI applications seeking information with regard to the various posts lying vacant at different departments.

32. It is observed that the petitioners have not approached any forum to address their grievances since the year 2005, and it is only in the year 2015 that the petitioner No. 3 made representation dated 7th January 2015,



wherein, he had stated that the respondents have not complied with the directions passed by this Court and further requested for appointment to Group – C post.

33. The respondent No.1 in its reply dated 3rd November 2016, had stated that pursuant to the directions passed vide order dated 7th November 2001, the name of the petitioner has been already forwarded to the concerned departments. It was further stated in the reply, that since the said directions have been completely complied by them, no further action remains to be taken on their part.

34. Subsequently, the petitioner filed the present writ petition in the year 2018 after another delay of 2 years since the issuance of the impugned letter dated 3rd November 2016.

35. In light of the above, this Court is of the view that the principle governing delay and laches involves unreasonable delay or negligence in pursuing a claim. The two most important factors that this Court has looked at are; firstly, the length of the delay and secondly, the nature of acts done during the interval. The length of the delay as also mentioned herein above is of 13 long years and the nature of the acts done by the petitioners ascribe that they have been working in Group – D post. 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.

36. If a writ jurisdiction is exercised post a delay which is not substantiated with any reasons, it might have an effect of inflicting hardship and inconvenience, further causing injustice on third parties. Furthermore,



when a writ jurisdiction is invoked, unexplained delay is an important factor which also weighs upon the High Court in deciding whether or not to exercise such jurisdiction, considering the delay and further developments.

37. The Courts ordinarily does not permit an inordinate and belated approach for redressal of the grievances under the extraordinary jurisdiction enshrined under Article 226 of the Constitution of India, thereby, violating the law settled by the Hon'ble Supreme Court by way of catena of judgments.

38. In view of the above discussions of facts and law, this Court if of the view that at the outset, the instant petition is affected by an unreasonable delay. Therefore, the petition cannot be entertained and further deserves to be dismissed on the ground of delay and laches itself. This Court discerns no material to establish the propositions put forth by the petitioners.

39. Based on the aforementioned arguments, this writ petition is accordingly dismissed. Pending applications, if any, also stand dismissed.

40. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

AUGUST 23, 2023

Dy/ryp

Click here to check corrigendum, if any