

9th September, 2025
(D/L No.24)
Ct. No.4
(SKB)

W.P.S.T.58 of 2024

Goutam Dey
Versus
The State of West Bengal and others

Mr. Debabrata Acharyya,
Mr. Sital Samanta,
Mr. Samir Kumar Chaki,
Ms. Debjani Saha
... for the petitioner.

Mr. Tapan Kumar Mukherjee, Id. AGP,
Mr. Somnath Naskar
... for the State.

1. The writ petitioner was the applicant before the West Bengal State Administrative Tribunal (hereinafter referred to as the SAT in short), wherein he put to challenge the suspension order by filing OA No. 660 of 2023. The petitioner's OA has not been entertained by the SAT and the same has been disposed of by an order dated 04,12,2023, which is impugned in the present writ proceedings.
2. Heard learned advocate for the writ petitioner who was the applicant before the SAT. It is the case of the writ petitioner before the Tribunal that he was appointed as a Assistant Fishery Officer in May, 1984. On account of his repeated absence, he was served with show-cause notices and, ultimately, suspended on

08.08.1985. A charge memo thereafter was served on the petitioner on 07.07.1987. The petitioner has stated that he submitted a reply to the charge memo. Such averment however does not inspire any confidence whatsoever, as the averment has been made in the Original Application without reference to any date/details. The document annexed in support thereof also does not bear any date.

3. The petitioner thereafter claims to have made a representation dated 26.12.1988 before the authorities. In the representation, he has sought release of all due benefits including the salary. The representation is of 26.12.1988. Thereafter, in 2022, he got a legal notice sent to the authorities and based on such legal notice, he has invoked the jurisdiction of Tribunal in the year 2023, for challenging the order of suspension dated 08.08.1985. As per age stated in the affidavit filed with the writ petition, the petitioner is aged 67 years. Therefore, he must have crossed the age of superannuation in 2018.
4. The Tribunal has found the petitioner's case to be belated, barred by limitation and, therefore, has dismissed the Original Application.

5. The learned advocate for the petitioner, at the very outset, has handed over a supplementary affidavit wherein a reply has been furnished by an appellate authority under the Right to Information Act. The reply is dated 31.07.2024 and contains reply of two queries made by the petitioner which are in the following terms:

“Q.1. Whether any dismissal order was in connection with the suspension of Shri Gautam Dey by Shri Ashim Barman, the then Director of Fisheries, Govt. of West Bengal, vide his office Memo No. C.Cell-20 dated 08.08.1985 when the alleged employee was posted as Assistant fishery Officer, Balurghat, District-Dakshin Dinajpur as on 08.08.1985:?”

Reply: No record of dismissal order in connection with suspension of Shri Gautam Dey, AFO is available at this Directorate of Fisheries (HQ).

Q.2. Whether the prescribed suspension allowance was disbursed to the alleged employee during the suspension period as per rule?

Reply: No record regarding disbursement of subsistence allowance of Shri Gautam Dey has been found at this Directorate of Fisheries (HQ).”

6. It is submitted by the learned advocate appearing for the petitioner that the petitioner has been continuously taking up the issue before the authorities. Even after disposal of the O.A., he has received the RTI information which shows that there is no information in the Department regarding the proceedings conducted against the petitioner and regarding any payment of subsistence allowance being made.

7. He has also relied upon a decision of the Apex Court in the case of ***Ajay Kumar Choudhary Vs. Union of India through its secretary and another*** passed in ***Civil Appeal No.1912 of 2015***.
8. We are not inclined to accept the submissions based on the decision in the case of Ajay Kumar Choudhary (supra) where the facts are at stark variance with the facts arising for consideration in the present case. In that case the suspension, prior to issuance of a charge memo, had continued for about three years, and at this stage the issue was being pursued up by the writ petitioner in the proceedings before the Tribunal and the High Court. It is under such circumstances, since no charge memo was being issued that the Apex Court has made observation in paragraph 8 which is relied upon by the present writ petitioner. In the present case, a suspension order dated 08.08.1985 has been put to challenge by the writ petitioner by filing an OA in the year 2023. The judgment is factually distinguishable and therefore, in our opinion, is of no avail to the writ petition.
9. The submissions of the learned advocate for the petitioner are to be viewed having regard to the long delay which arises for consideration in the

present proceedings, based on the pleadings on record.

10. As recorded above, the averment regarding response to the charge memo, does not inspire confidence as no details have been given as to on which date the petitioner, if at all has submitted a reply. The undated alleged response when considered, together with the averments, it cannot be concluded that any statement of defence was filed by the applicant in response to the charge memo. The irresistible conclusion, therefore, is that the petitioner did not respond to the charge memo. Even in the O.A., the petitioner has not challenged the charge memo.

11. In the present case, no issue has been raised regarding conduct of the proceedings. The petitioner has assailed only a suspension order dated 08.08.1985, that also after a period of about 38 years.

12. The learned Advocate for the writ petitioner has laid great emphasis on the fact that legal notice was sent by the applicant/writ petitioner in the year 2002 and, therefore filing of the Original Application in the year 2023 cannot be said to be barred by limitation. The

conclusion of the Tribunal, therefore, is unsustainable and fit to be set aside.

13. We find no substance in such submission of the learned Advocate for the Writ Petitioner. Suspension order challenged before the SAT is dated 08.08.1985. The petitioner has never participated in the departmental proceedings after service of Charge Memo dated 07.07.1987. The first representation was made on 26.12.1988. The next communication from the applicant's/writ petitioner's side to the authorities is the legal notice dated 24.06.2022. In between, he has made application under Right to Information Act, 2005, in the year 2020.

14. Thus, it is obvious that a delay of nearly 38 years in assailing a charge memo is sought to be overcome by placing reliance on one legal notice served on the respondent, 37 years after the suspension order; and one year prior to filing of the OA. Whether the filing of a representation after such inordinate delay will resurrect an otherwise extinguished cause of action is the issue arising for consideration. It is by now settled in law that mere filing of representation(s) will not extend the period of limitation. In this connection we consider it

apposite to take note of a decision of the apex Court in the case of ***Surajit Sahani v. State of U.P & Ors. Reported in (2022) 15 SCC 536*** para 8 of the same reads as follows:

“8. As observed by this Court in a catena of decisions, mere representation does not extend the period of limitation and the aggrieved person has to approach the Court expeditiously and within a reasonable time. If it is found that the writ petitioner is guilty of delay and laches, the High Court should dismiss it at the threshold and ought not to dispose of the writ petition by relegating the writ petitioner to file a representation and/or directing the authority to decide the representation, once it is found that the original writ petitioner is guilty of delay and laches. Such order shall not give an opportunity to the petitioner to thereafter contend that rejection of the representation subsequently has given a fresh cause of action.

15. Having regard to the settled legal position we find no reason whatsoever to exercise our discretionary and extraordinary writ jurisdiction under Article 226 of the constitution of India to interfere with the order passed by the SAT In OA No. 660 of 2023.

16. The writ petition is accordingly dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)