

August 14, 2025
Sl. No.52
Court No.8
s.biswas

MAT 1595 of 2023

Nani Bala Das
vs.
The Union of India and others

Mr. Tapash Kumar Bhattacharyya
Mr. Aviroop Bhattacharyya

... for the appellant

Mr. Indrajeet Dasgupta
Mr. Madhu Jana

... for the Union of India

1. Mr. Tapash Kumar Bhattacharyya, learned counsel for the appellant and Mr. Indrajeet Dasgupta, learned advocate for the respondent Union of India are present. None appears on behalf of the employer/respondent nos.2 to 5.
2. With consent, finally heard.
3. This intra-court appeal takes exception to the order dated 27.04.2023 passed in WPA 21623 of 2022 whereby the petition filed by the widow of the deceased employee seeking benefit of pension was dismissed solely on the ground of delay, laches, acquiescence on her part.
4. Learned counsel for the appellant submits that the learned Single Judge has not dealt with merits of the case. The petition was solely dismissed on the ground of delay. By taking assistance of judgment of the Supreme Court report in **(1995) 4 SCC 683 (State of Maharashtra vs. Digambar)**, it is submitted that this judgment of the Supreme Court was not dealing with retiral dues/pensionary benefits. By

placing reliance of the judgment of the Supreme Court in ***Asger Ibrahim Amin vs. Life Insurance Corporation of India [2015 0 Supreme(SC) 954]***, it is submitted that the claim of pension is a recurring cause. The right of pension accrues every month. The pensionary claims cannot be dismissed on the ground of delay and laches.

5. Nobody appeared for the employer corporation.
6. Mr. Indrajeet Dasgupta, learned advocate appearing for the Union of India supported the impugned order.
7. We have heard the parties at length. A plain reading of the order of the learned Single Judge shows that contention of the learned counsel for the petitioner is correct that the claim of the widow has not been tested on the anvil of enabling provisions. The claim was dismissed solely on the ground of delay, laches and acquiescence. We find substantial force in the argument of the learned counsel for the appellant that the pensionary benefits accrue every month and it is a recurring/continuous cause of action. The relevant para of judgment of the Supreme Court in ***Asger Ibrahim Amin*** (supra) reads thus – *“4. As regards the issue of delay in matters pertaining to claims of pension, it has already been opined by this Court in Union of India vs. Tarsem*

Singh (2008) 8 SCC 648 that in cases of continuing or successive wrongs, delay and laches or limitation will not thwart the claim so long as the claim, if allowed, does not have any adverse repercussions on the settled third-party rights.

This Court held:

“7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties.”

8. The point is even otherwise no *res integra*. In another recent judgment in ***M. L Patil (Dead) through Legal Representatives vs. State of Goa and another*** [(2023) 1 Supreme Court Cases 660], the Supreme Court held as under:

“5. Having heard Shri Rahul Gupta, learned counsel appearing on behalf of the appellant and Shri Ravindra Lokhande, learned counsel appearing on behalf of the respondent State of Goa and considering the fact that even by the impugned judgment and order, the High Court has held that action of the State Government in requiring the original petitioners to retire at the age of 58 years or not permitting them to continue in their service up to the age of 60 years is illegal and null and void, we are of the view that the High Court has erred in observing that the appellant will not be entitled to any arrears of pension and the pension at the revised rates will become payable only from 1-1-2020.

6. As such, the High Court may be right and/or justified in denying any salary for the period of two extra years to the writ petitioners if they would have continued in service, on the ground of delay. However, as far as the pension is concerned, it is a continuous cause of action. There is no justification at all for denying the arrears of pension as if they would have been

retired/superannuated at the age of 60 years. There is no justification at all by the High Court to deny the pension at the revised rates and payable only from 1-1-2020. Under the circumstances, the impugned judgment and order passed by the High Court is required to be modified to the aforesaid extent.”

9. In view of these authoritative pronouncements by Supreme Court, we are unable to give our stamp of approval to the order of learned Single Judge whereby the petition of widow was dismissed on the ground of delay and laches, etc. Resultantly, the order dated 27.04.2023 is **set aside**. WPA 21623 of 2022 is restored to its original number. Since it is a case of widow who is not getting retiral dues, in the interest of justice, we deem it proper to request the learned Single Judge to decide the writ petition expeditiously, preferably within 30 days this order is brought to the notice of the learned Single Judge.
10. The appeal is **disposed of** without expressing any opinion on the entitlement of the petitioner.
11. If necessary, the Registry shall obtain appropriate orders from Hon'ble the Chief Justice.

(Sujoy Paul, J.)

(Smita Das De, J.)

