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W.P.No.24416 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.11.2025

PRONOUNCED ON : 14.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.24416 of 2019
and WMP.No.24153 of 2019

V.Selvam

.. Petitioner

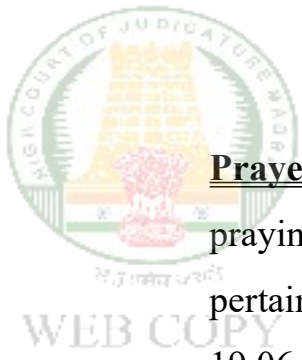
vs

1.Deputy General manger,
KRO and Disciplinary Authority
Kochi Regional Office,
1st and 2nd Floor, Omana Buildings,
Jews Street, Padma Junction,
Kochi – 682 035.

2.General Manager and Appellate Authority,
National Insurance Company Ltd.,
3, Middleton Street,
Kolkatta – 700 071.

3.The Chairman Cum Managing Director
and Memorial Authority,
National Insurance Company Ltd.,
Head Office, 3 Middleton Street,
Kolkatta – 700 071.

... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified mandamus to call for the records pertaining to the impugned order passed by the 1st respondent dated 19.06.2013, impugned order passed by the 2nd respondent dated 24.02.2015 and impugned order passed by the 3rd respondent dated 20.04.2016 and quash the same and direct the 3rd respondent to pay the differential arrears in Salary, all other retirement and pension benefits to the petitioner.

For Petitioner : Ms.C.R.Pavithra
for Mr.A.R.Vishwaram

For Respondents : Mr.P.Sankaranarayanan
Standing Counsel

ORDER

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents and perused the records.

2. The case of the petitioner in brief is that he had worked with the respondent company for 37 years with all sincerity; that by a short notice dated 30.06.2010, he was called for preliminary enquiry by the Vigilance Officer in relation to issuance of a Fire Insurance Policy and Settlement of its claim during his tenure of work at Dindigul Divisional office in the year 2005; that he had attended the enquiry and explained that there were no



lapses on his part and the suspicion raised was baseless; and that notwithstanding the explanation given by him, he was issued with a memorandum and charge sheet on 02.01.2012 alleging 'failure of overall Supervisory Duty' and called up to submit his explanation within fifteen days.

3. The petitioner further contended that in all three charges were framed against him under the charge sheet dated 02.01.2012; that on he submitting explanation and appointing his defence assistant, the enquiry proceedings commenced in the month of June,2012 and were completed on 15.05.2013; and that during the period of the said proceedings, he had given detailed explanation to the enquiry authority appointed for the said purpose.

4. It is also case of the petitioner that the enquiry proceedings took 1-1/2 years for completion; and that the disciplinary authority passed the impugned order dated 19.06.2013 claiming that as per the Enquiry Report, charges I and II against the petitioner were 'proved' while the other charge was held to be 'not proved' and imposed penalty of “Reduction of Basic Pay by one Stage”.



5. It is the further case of the petitioner that aggrieved by the order of punishment awarded, he had preferred an appeal to the Appellate Authority and on the Appellate Authority confirming the order imposing punishment/penalty, second appeal was also filed to the Chairman and Managing Director who had also confirmed the said order without considering the submissions made by the petitioner as to his non-involvement in connection with the alleged charges.

6. Thus, the petitioner contends that the impugned orders passed by the respondents No.1, 2 and 3 respectively are liable to be quashed.

7. Counter affidavit on behalf of respondents is filed.

8. The respondents by the counter affidavit while denying the writ averments contended that while the petitioner was working as a Divisional Manager and being in a supervisory cadre had failed in discharging his duties, due to which, the respondents had incurred loss of Rs.2.70 lacs.



9. By the counter affidavit, it is contended that on account of failure of the petitioner in discharging his supervisory duties, a Fire Insurance Policy was issued after four days after occurrence of accident namely severe flood on 24.11.2005 and also by altering the value of the sum insured in the proposal form submitted for obtaining Insurance Policy.

10. By the counter affidavit, it is also contended by the respondents that the petitioner being the Divisional head could not have allowed alterations in relation to the damages to the stocks of groceries without obtaining prior approval from the Regional office from the post loss rectification of policy period, and since, issuance of policy after four days after occurring of loss was done with malicious intention to cover doubtful loss which was failed to be noticed by the petitioner and also having casually dealt with the claim lodged by the beneficiary, the petitioner was visited with the minimal punishment for the above action of misconduct by a Senior Officer.

11. By contending as above, learned Standing Counsel appearing for the respondents seeks for dismissal of the writ petition.



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12. I have taken note of the respective contentions urged.

13. Though on behalf of the petitioner, submissions were sought to be made touching on the merits of the matter to impress upon this Court that the impugned order by which, the petitioner was visited with penalty, so also the orders of the first and second Appellate authority confirming the said order are unsustainable; firstly, it is to be noted that this Court in a writ petition filed under Article 226 of the Constitution of India against an order of Disciplinary Authority does not act as an Appellate Court by re-appreciating the evidence. (See *Union of India and others vs. P.Gunasekaran* reported in (2015) 2 SCC 610 and *Indian Oil Corporation and Others vs. Ajit Kumar Singh* and another reported in (2023) 19 SCC 102)

14. Further, in the facts of the present case, the petitioner was visited with an order of punishment/penalty dated 19.06.2013 and the petitioner on being served with the aforesaid order had availed the remedy of first appeal before the Appellate authority. On the Appellate authority rejecting the



appeal filed by the petitioner vide order dated 24.02.2015, the petitioner filed second appeal to the Chairman and Managing Director who also did not find favour with the contention of the petitioner and dismissed the second appeal vide its order dated 20.04.2016.

15. The petitioner on receiving the aforesaid order passed in second appeal accepted the aforesaid order and only after a lapse of about 3 years and 4 months had approached this Court by the present writ petition.

16. Though on behalf of the petitioner, it is contended that the petitioner after receiving the order in the second appeal having made an application under RTI Act seeking for furnishing of certain information and thereafter having approached this Court by filing the present writ petition, it is to be noted that mere filing of an application under RTI Act, cannot be considered as resulting in continuation of cause of action for the petitioner to approach this Court belatedly.

17. Though it is contended by the petitioner that he not being acquainted with the legal procedures and for the said reason, relief cannot



be denied in otherwise a meritorious case, it is important to note that the petitioner is not a layman but worked as Divisional Manager of the respondents holding a Supervisory position. More so, the respondent being an Insurance Company and the petitioner being a Divisional head requiring to deal regularly with legal matters and procedures, the submission now made is intended to create sympathies for himself. Further, the petitioner aggrieved by the order of disciplinary authority, having availed the remedy of first and second appeal cannot claim of he not being aware of the further course of action to be taken, if he is aggrieved by the impugned orders.

18. The petitioner on dismissal of the second appeal by the 3rd respondent vide order dated 20.04.2016 had not only allowed the said order to attain finality but also acquiesced of the matter. It is only after a lapse of long time, the petitioner approached this Court by the present writ petition. Though it is contended by the petitioner, that he cannot be non-suited on the ground of delay and laches as he is otherwise having a meritorious case, it is trite law that in service matters, delay and laches plays a vital role and if the aggrieved party does not seek to assert his right when affected, the Equity Court can refuse to grant relief even if otherwise entitled to.



19. The Apex Court in the case of ***Chennai Metropolitan Water Supply & Sewerage Board and others v. T.T. Murali Babu*** reported in **(2014) 4 SCC 108** dealt with the aspect of delay and laches, and observed as under:

“ 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



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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.”

20. The Apex Court in the case of ***Karnataka Power Corporation Ltd. vs. Thangappan and another*** reported in (2006) 4 SCC 322 observed as under:

“ 6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of



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time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in Durga Prashad v. Chief Controller of Imports and Exports [(1969) 1 SCC 185 : AIR 1970 SC 769] . Of course, the discretion has to be exercised judicially and reasonably.”

21. Further in the case of ***State of Jammu & Kashmir v. R.K. Zalpuri and others*** reported in (2015) 15 SCC 602, the Apex Court has held as under:

“ 27. The grievance agitated by the respondent did not deserve to be addressed on merits, for doctrine of delay and laches had already visited his claim like the chill of death which does not spare anyone even the one who fosters the idea and nurtures the attitude that he can sleep to avoid death and eventually proclaim “deo gratias”—“thanks to God”. ”



22. The Apex Court in the case of ***Rushibhai Jagdishchandra Pathak vs. Bhavnagar Municipal Corporation*** reported in (2022) 18 SCC 144 while following the ratio laid down in the case of ***Union of India v. Tarsem Singh*** reported in (2008) 8 SCC 648 case held as under:

“8. The doctrine of delay and laches, or for that matter statutes of limitation, are considered to be statutes of repose and statutes of peace, though some contrary opinions have been expressed. The courts have expressed the view that the law of limitation rests on the foundations of greater public interest for three reasons, namely,

- (a) that long dormant claims have more of cruelty than justice in them;*
- (b) that a defendant might have lost the evidence to disapprove a stale claim; and*
- (c) that persons with good causes of action (who are able to enforce them) should pursue them with reasonable diligence.*

Equally, change in de facto position or character, creation of third-party rights over a period of time, waiver, acquiescence, and need to ensure certitude in dealings,



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are equitable public policy considerations why period of limitation is prescribed by law. Law of limitation does not apply to writ petitions, albeit the discretion vested with a constitutional court is exercised with caution as delay and laches principle is applied with the aim to secure the quiet of the community, suppress fraud and perjury, quicken diligence, and prevent oppression. Therefore, some decisions and judgments do not look upon pleas of delay and laches with favour, especially and rightly in cases where the persons suffer from adeptness, or incapacity to approach the courts for relief. However, other decisions, while accepting the rules of limitation as well as delay and laches, have observed that such rules are not meant to destroy the rights of the parties but serve a larger public interest and are founded on public policy. There must be a lifespan during which a person must approach the court for their remedy. Otherwise, there would be unending uncertainty as to the rights and obligations of the parties.”



23. In the light of the aforesaid settled position of law, if the case of the petitioner is examined, the petitioner on his second appeal against the order imposing punishment being rejected, accepted the same and only after a lapse of 3-1/2 years had filed the present writ petition. There is no explanation offered by the petitioner in the affidavit filed in support of the writ petition as to why the petitioner could not have approached this Court at an earlier point of time.

24. Though an effort was made to contend that the petitioner has good case on merits, the fact that the petitioner having slept over his rights disentitle him from being granted any relief. Thus, refraining from expressing any opinion on the merits of the matter, the present writ petition is liable to be dismissed on the ground of delay and laches.

25. Accordingly, the writ petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

14.11.2025

msv

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Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

To

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KRO and Disciplinary Authority
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T. VINOD KUMAR, J.

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