

(2017) 02 CHH CK 0068
In the Chhattisgarh High Court
Case No : 776 of 2017

Bali Ram Chaurasia S/o Shri Chaitu Ram	APPELLANT
Vs	
State of Chhattisgarh	RESPONDENT

Date of Decision : 23-02-2017

Acts Referred:

[Constitution of India](#), [Article 226](#) -
Power of High Courts to Issue certain writs

Citation : (2017) 02 CHH CK 0068

Hon'ble Judges : P Sam Koshy

Bench : Single Bench

Advocate : M K Sinha, B Gopa Kumar

Final Decision : Dismissed

Judgement

1. The present petition has been preferred seeking for a direction to the respondents to release the salary of the petitioner for the month from July, 1993 to February, 1994 amounting to Rs.32,000/- with interest.
2. This court is inclined to dismiss the petition only on the ground of delay and laches for the reason that the claim made is of the year, 1994 and the petitioner has for the first time raised the claim after a period of more than 23 years of service. What is pertinent to take note of the fact is that the petitioner is an educated person and is working as a Headmaster. If the people like the petitioner does not promptly raise a dispute for settlement of their grievance and seek for redressal of dispute after a period of more than 23 years, it cannot be said that the petitioner was legitimately pursuing his claim all this period and then filed the petition after an inordinate delay of 23 years.
3. The question of delay and laches came to be considered very recently by the Supreme Court in case of State of Uttaranchal and Another v. Shiv Charan Singh Bhandari and Others, 2013 (12) SCC 179 in which the court has declined to exercise extraordinary jurisdiction in case the petitioner invokes jurisdiction of

court with inordinate delay, and held as under : "In State of T.N. v. Seshachalam[8], this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus: -

...filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant."

4. Likewise, in case of Uttaranchal Forest Development Corpn. And another vs. Jabar Singh and others, (2007) 2 SCC 112 ,it was observed as under:

"43. The termination order was made in the year 1995 and the writ petitions were admittedly filed in the year 2005 after a delay of 10 years. The High Court, in our opinion, was not justified in entertaining the writ petition on the ground that the petition has been filed after a delay of 10 years and that the writ petitions should have been dismissed by the High Court on the ground of laches."

5. Further, in the case of New Delhi Municipal Council v. Pan Singh and others, (2007) 9 SCC 278 , the Supreme Court reiterating the principles relating to interference in cases where petitioner approached the Court with unexplained delay as below:

"16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction. (See Govt. of W.B. v. Tarun K. Roy, U.P. Jal Nigam v. Jaswant Singh and Karnataka Power Corpn. Ltd. v. K. Thangappan.)"

6. In the case of P. S. Sadasivaswamy vs. State of Tamil Nadu, (1975) 1 SCC 152 , it has been held as under:- "It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put

forward stale claims and try to unsettle settled matters. The petitioner's petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant's petition as well as the appeal."

7. In the case of Bhoop Singh v. Union of India, (1992) 3 SCC 136 , it was held as under: "8. There is another aspect of the matter. Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief. Others are then justified in acting on that belief. This is more so in service matters where vacancies are required to be filled promptly. A person cannot be permitted to challenge the termination of his service after a period of twenty-two years, without any cogent explanation for the inordinate delay, merely because others similarly dismissed had been reinstated as a result of their earlier petitions being allowed."

8. Very recently in case of Chennai Metropolitan Water Supply and Sewerage Board and Others v. T.T. Murali Babu, 2014 (4) SCC 108 , the Supreme Court has clearly held that delay may have impact on others" ripened rights and may unnecessarily drag others into litigation, and expressed their opinion 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 scrutinize 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.

In the case at hand, though there has been four years" delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the

cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons - who compete with "Kumbhakarna" or for that matter "Rip Van Winkle". In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."

9. Bearing in mind the principles of law laid down by the Supreme Court in above referred cases with regard to entertainment of petition filed with inordinate delay and laches if the facts of present case are examined, it would appear that the petitioner has filed this petition in the month of January, 2017 claiming release the salary pending from July, 1993 to February, 1994, whereas, cause of action arose in July, 1993 to February, 1994, and as such there is delay of more than 23 years in filing the petition and the petitioner has neither explained such inordinate delay nor has filed any document to substantiate the same.

10. As a fall out and the consequence of the aforesaid discussion, the petition is held to be devoid of merit and is therefore dismissed.