
(2014) 09 AHC CK 0032

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 51562 of 2014

Bharat Singh

APPELLANT

Vs

U.P. State Road Transport Corporation and Others

RESPONDENT

Date of Decision : 23-09-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2014) 11 ADJ 502

Hon'ble Judges : Suneet Kumar, J

Bench : Single Bench

Advocate : Rajesh Tiwari, Advocates for the Appellant; Sunil Kumar Mishra, Advocates for the Respondent

Judgement

Suneet Kumar, J.—It transpires from the record that the petitioner was working as a conductor with the respondent-Uttar Pradesh State Road Transport Corporation, superannuated on attaining the age of retirement in 2004. The petitioner after ten years has approached this Court seeking the following reliefs:

"(a) issue a writ order or direction in the nature of mandamus commanding the respondents to decide the departmental appeals pending before the authority.

(b) issue any other suitable writ order or direction which this Hon"ble Court may deem fit and proper in the circumstances of the case."

The pending appeals which the petitioner seeks to be decided by the respondents is of 26.8.1984, 1.2.1992 and 11.11.1997.

2. Sri S.K. Mishra, learned counsel appearing on behalf of respondent-Uttar Pradesh State Road Transport Corporation, states that the petition is highly belated and is being preferred after 30 years, further by mere filing of representation will not condone the laches on the part of the petitioner.

3. The issue of delay in filing a writ petition was considered by the Apex Court in Smt. Sudama Devi Vs. Commissioner and Others, , wherein the Apex Court has

observed as under:

"There is no period of limitation prescribed by any law for filing the writ petition under Article 226 of the Constitution. It is, in fact, doubtful whether any such period of limitation can be prescribed by law. In any event, one thing is clear and beyond doubt that no such period of limitation can be laid down either under the rules made by the High Court or by practice. For every case, it would have to be decided on the facts and circumstances whether the petitioner is guilty of laches and that would have to be done without taking into account any specific period as period of limitation. There may be cases where even short delay may be fatal while there may be cases where even a long delay may not be evidence of laches on the part of the petitioner."

4. Similarly, in *State of U.P. and Others Vs. Raj Bahadur Singh and Another*, ; the Apex Court held that "there is no time limit for filing the writ petition. All that the Court has to see is whether the laches on the part of the petitioner are such as to disentitle him to the relief claimed by him."

5. In *Northern Indian Glass Industries Vs. Jaswant Singh and Others*, , the Apex Court held that the High Court cannot ignore the delay and laches in approaching the writ Court and there must be satisfactory explanation by the petitioner as how he could not come to the Court well in time. A similar view has been reiterated by the Supreme Court in *The Printers (Mysore) Ltd. Vs. M.A. Rasheed and Others*, wherein the Supreme Court held that the High Court should have dismissed the writ petition on the ground of delay and laches.

6. The Constitution Bench (seven Judges) decision in *S.S. Rathore Vs. State of Madhya Pradesh*, , Supreme Court has held as follows:

"We are of the view that the cause of action shall be taken to arise not from the date of the original adverse order but on the date when the order of the higher authority where a statutory remedy is provided entertaining the appeal or representation is made and where no such order is made, though the remedy has been availed of, a six months" period from the date of preferring of the appeal or making of the representation shall be taken to be the date when cause of action shall be taken to have first arisen. We, however, make it clear that this principle may not be applicable when the remedy availed of has not been provided by law. Repeated unsuccessful representations not provided by law are not governed by this principle."

7. The Supreme Court in *Karnataka Power Corporation Limited through its Chairman and Managing Director and Another Vs. K. Thangappan and Another*, , held that series of representations cannot extend the period of limitation to condone the laches on the part of petitioner.

8. In the facts and circumstances of the case, the Court is not inclined to exercise its discretionary power under Article 226 of the Constitution. The writ petition is, accordingly, dismissed. No order as to cost.