
(2019) 09 J&K CK 0015

In the Jammu And Kashmir High Court

Case No : Writ Petition (C) No. 3488 Of 2019, CM No. 7270 Of 2019

Khazan Singh

APPELLANT

Vs

State Of Jammu & Kashmir & Anr

RESPONDENT

Date of Decision : 25-09-2019

Acts Referred:

Constitution Of India, 1950 — Article 14

Citation : (2019) 09 J&K CK 0015

Hon'ble Judges : Tashi Rabstan, J

Bench : Single Bench

Advocate : Rajnesh Singh Parihar

Final Decision : Dismissed

Judgement

Tashi Rabstan, J

1. The case of the petitioner as projected in the writ petition is that vide order dated 29.10.1999 the petitioner was engaged as SPO belt No. 1845/SPO, however, due to creation of more districts, the petitioner's belt number was changed and he was allotted the new belt No. i.e. 1142/SPO. Subsequently, the petitioner along with similarly situated appointees were directed to remain attached with SPO Post Malai and the petitioner accordingly joined the place of posting after proper verification and since then he has performed his duty in District Doda till September, 2013. Thereafter, the petitioner was deputed at the residence of the then Hon'ble Minister of R&B Doda.

2. It is stated in the writ petition that on 08.09.2013, the petitioner with the permission of higher officials visited his home to see his unwell father and after two days when he returned back to join his duty he was not allowed to join by his senior officers and subsequently, the petitioner was disengaged from the service vide impugned order dated 09.12.2013. It is stated that the petitioner after continuous representations to the respondents was provided the impugned order after about six years on 20.08.2019, therefore, he could not challenge the

impugned order before this Court in due time.

3. Heard learned counsel for the petitioner.

4. There is a delay of about six years in approaching this Court to challenge the impugned order. The cause of delay as mentioned by the petitioner in the writ petition is that he with the permission of higher officials on 8th September, 2013, visited his home to see his ailing father, but he was not allowed to resume his duty when he returned back after two days and after continuous representations to the respondents was provided the impugned order after about six years on 20.08.2019.

5. A perusal of impugned order reveals that the petitioner along with two other SPOs were disengaged from roll as they remained absent from duty for three months. The impugned order came to be issued on 09.12.2013, however, the explanation offered by the petitioner for cause of delay cannot be believed as he has failed to show any document to prove that he resumed his duty after availing his two days' leave. The petitioner has even not shown any document or proof to prove that he has received the impugned order by the respondents on 20.08.2018. The petitioner has not annexed with writ petition any representations stated to have been filed by the petitioners before respondent no. 2. Therefore, the petitioner has failed to explain the delay in approaching the Court for challenging the impugned order.

6. In view of the settled law laid down by the Apex Court in "State of Uttaranchal and anr. v. Shiv Charan Singh Bhandari and ors." reported in 2013 (12) SCC 179, 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.

7. The Supreme Court, particularly in case of delay in approaching the Court regarding service matters, in a case titled "Bhoop Singh v. Union of India" reported in (1992) 3 SCC 136 has observed that 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.

8. In view of the above, the present writ petition is dismissed along with connected CM(s).