

(2019) 08 JH CK 0182
In the Jharkhand High Court
Case No : Writ Petition (c) No. 7426 Of 2017

Mohan Gorain

APPELLANT

Vs

Steel Authority Of India Limited And Ors

RESPONDENT

Date of Decision : 09-08-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 08 JH CK 0182

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : A.K. Sahani, Rajiv Ranjan

Final Decision : Dismissed

Judgement

This writ petition is under Article 226 of the Constitution of India, whereby and whereunder the petitioner has sought for direction upon the respondents to provide him appointment on the category of displaced persons in lieu of acquisition of land.

It is the case of the petitioner that the land pertaining to the petitioner has been acquired in the year 1961-62 in a proceeding initiated under Land Acquisition Case No.12 of 1961-62, in pursuance thereof the award was prepared.

The petitioner has been provided appointment under the scheme but the same has been provided in favour of one third person who by impersonating him as the petitioner has got the appointment under the displaced category quota, on being inquired into a charge sheet was submitted upon him and the said person has been terminated in the year 1991 and thereafter the petitioner has approached to the authority for filing a representation in the year 2014 (08.07.2014) and when no decision has been taken, the present writ petition has been filed.

Mr. Rajiv Ranjan, learned senior counsel for the respondent-SAIL submits that the land having been acquired way back in the year 1961 and thereafter the petitioner sat ideal and even accepting that the third person has got appointment

by impersonating the petitioner, the said appointment has been cancelled in the year 1991 and thereafter after 23 years for the first time the petitioner has made representation before the authority on 08.07.2014, therefore, the present writ petition is not fit to be entertained on the ground of delay and laches.

In response learned counsel for the petitioner submits that the petitioner has repeatedly submitted representation and as such the principle of delay and laches will not come in the way.

Having heard learned counsel for the parties and appreciating the rival submissions, the admitted fact in this case is that the land in question has been acquired in the year 1961. The petitioner has not been provided with appointment rather one other person has been appointed by impersonating the petitioner who on being complained on a fulfilled enquiry this fact has been found to be true, thereafter the said person has been terminated from the service in the year 1991 and thereafter the petitioner has filed representation on 08.07.2014 i.e. after a period of 23 years, the stand has been taken by the petitioner that the award since has been passed in the year 1991, therefore, the cause of action will be said to have arisen from the year 1991, even accepting that aspect of the matter the petitioner for the first time has approached before the authority in the year 2014 i.e. after delay of 23 years.

The ground for such delay has been agitated by the learned counsel for the petitioner by showing that the representation has been filed but it is settled position of law that the filing of representation will not be treated to be a sufficient cause/reason to relax the principle of delay and laches as has been held by the Hon'ble Apex Court.

The Hon'ble Apex Court in the case of P.S Sadasivaswamy vs. State of Tamil Nadu reported in (1975) 1 SCC 152, at paragraph 2 has been pleased to hold as under:

"2. The main grievance of the appellant is that the second respondent who was junior to him as Assistant Engineer was promoted as Divisional Engineer in 1957 by relaxing the relevant rules regarding the length of service necessary for promotion as Divisional Engineer and that his claim for a similar relaxation was not considered at that time. The learned Judge of the Madras High Court who heard the writ petition was of the view that the relaxation of the rules in favour of the second respondent without considering the appellant's case was arbitrary. In view of the statement on behalf of the Government that such relaxation was given only in the case of overseas scholars, which statement was not controverted, it is not possible to agree with the view of the learned Judge. Be that as it may, if the appellant was aggrieved by it he should have approached the Court even in the year 1957, after the two representations made by him had failed to produce any result. One cannot sleep over the matter and come to the Court questioning that relaxation in the year 1971. There is the further fact that even after Respondents 3 and 4 were promoted as Divisional Engineers over the

head of the appellant he did not come to the Court questioning it. There was a third opportunity for him to have come to the Court when Respondents 2 to 4 were again promoted as Superintending Engineers over the head of the appellant. After fourteen long years because of the tempting prospect of the Chief Engineership he has come to the Court. In effect he wants to unscramble a scrambled egg. It is very difficult for the Government to consider whether any relaxation of the rules should have been made in favour of the appellant in the year 1957. The conditions that were prevalent in 1957, cannot be reproduced now. In any case as the Government had decided as a matter of policy, as they were entitled to do, not to relax the rules in favour of any except overseas scholars it will be wholly pointless to direct them to consider the appellant's case as if nothing had happened after 1957. Not only Respondent 2 but also Respondents 3 and 4 who were the appellant's juniors became Divisional Engineers in 1957, apparently on the ground that their merits deserved their promotion over the head of the appellant. He did not question it. Nor did he question the promotion of his juniors as Superintending Engineers over his head. He could have come to the Court on every one of these three occasions. A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. 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."

The Hon'ble Apex Court in the case of Shiv Dass vs. Union of India and Ors. reported in (2007) 9 SCC 274, at paragraph 9 has been pleased to hold as under:

"9. It has been pointed out by this Court in a number of cases that representations would not be adequate explanation to take care of delay. This was first stated in K.V. Rajalakshmiah Setty v. State of Mysore. There is a limit to the time which can be considered reasonable for making representations and if the Government had turned down one representation the making of another representation on similar lines will not explain the delay. In State of Orissa v. Pyarimohan Samantaray making of repeated representations was not regarded as satisfactory explanation of the delay. In that case the petition had been dismissed for delay alone."

The Hon'ble Apex Court in the case of New Delhi Municipal Council vs. Pan Singh and Ors. reported in (2007) 9 SCC 278, at paragraph 9 has been pleased to hold as under:

"9.The respondents were appointed on different dates, admittedly after 6-2-1982. Entitlement of an employee to be placed on a particular scale of pay would depend upon the terms and conditions laid down in the contract of service."

It is further also the position of law that the writ Court is not meant for loath litigants since whenever anybody fill necessary will approach to the Court rather the writ Court being a Court of equity is supposed to be invoked within a reasonable period, although there is no period of limitation provided in invoking the jurisdiction, however under Article 226 of the Constitution of India, the principle of delay and laches is to be looked into by the writ Court.

Therefore, this Court is of the view that since the petitioner for the first time has approached before the authority by filing a representation on 08.07.2014, even accepting it to be accrued from the date of award i.e. sometime in the year 1991, therefore, it is after lapse of period of 23 years this writ petition is not fit to be entertained on the ground of delay and laches.

Accordingly, the writ petition fails and is dismissed.