

(2021) 07 DEL CK 0081

In the Delhi High Court

Case No : Civil Writ Petition No.6224 Of 2021

Om Parakash Yadav & Ors.Vs Union Of India & Ors

Date of Decision : 08-07-2021

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2021) 07 DEL CK 0081

Hon'ble Judges : Rajiv Sahai Endlaw, J;Amit Bansal, J

Bench : Division Bench

Advocate : Arun Dhiman, Kirtiman Singh, Waize Ali Noor, Taha Yasin

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J

CM No.19719/2021(for exemption)

1. Allowed, subject to just exceptions and as per extant rules.

2. The application is disposed of.

W.P.(C) 6224/2021

3. The 86 petitioners, being serving and retired employees of the respondents Central Reserve Police Force (CRPF), have filed this petition seeking a

mandamus to the respondents CRPF to grant notional monetary benefits in replacement pay scale to the petitioners w.e.f. 01.01.1996 to

10.10.1997, as per ranks held by the petitioners as on 01.01.1996.

4. It is the case of the petitioners, that (i) they, as on 1st January, 1996, were non-gazetted officers of CRPF; (ii) the Fifth Central Pay Commission

submitted its report on 30th January, 1997 and which was accepted with effect from 1st January, 1996; (iii) on 30th September, 1997, in accordance

with the report of the Fifth Central Pay Commission, the rank structure and pay

scale of non-gazetted cadres of Central Police Organizations, including CRPF, was rationalized; (iv) on 10th October, 1997, new pay-scales due were notified and though should have been made effective with effect from 1st January, 1996 i.e. the date with effect from which the recommendations of the Fifth Central Pay Commission were accepted, but were erroneously made effective with effect from 10th October, 1997; (v) resultantly, the petitioners were given benefit of the new pay scales, with effect from 11th October, 1997, instead of from 1st January, 1996; (vi) Supreme Court, vide order dated 7th May, 2015, allowed Civil Appeal

No.2010/2009 titled All India Postal Employees Union Vs. Union of India and held that the members of the All India Postal Employees Union would be entitled for arrears of wages / salaries, from 1st January, 1996 to 10th October, 1997; and, (vii) the petitioners are similarly placed as the members of the All India Postal Employees Union and are thus entitled to the same relief.

5. As would be obvious from the above, the claim in the present writ petition is for recovery of monies claimed to be due to the petitioners for the period 1st January, 1996 to 10th October, 1997 on account of deficiency/shortfall in the salary disbursed to the petitioners.

6. Ordinarily, a writ petition, simpliciter for recovery of money, does not lie. Reference in this regard can be made to *Suganmal Vs. State of Madhya*

Pradesh AIR 1965 SC 1740, Union of India Vs. Orient Enterprises (1998) 3 SCC 501, U.P. Pollution Board Vs. Kanoria Industrial Ltd. (2001) 2 SCC

549, Godavari Sugar Mills Limited Vs. State of Maharashtra (2011) 2 SCC 439 and Punjab National Bank Vs. Atmanand Singh (2020) 6 SCC 256. The

principle of law is, that ordinarily the Court will not entertain a petition for a writ under Article 226 of the Constitution of India, where the petitioner has

an alternate remedy, which without being unduly onerous, proves an equally efficacious remedy and that resort to writ jurisdiction is not intended as an

alternative remedy for relief which may be obtained in a suit.

7. Though the Limitation Act, 1963 is not applicable to writ proceedings, but principles thereof are applicable. The Limitation Act provides for

limitation of three years for a suit for recovery of wages, commencing from the date when the wages accrue due. The wages for a month, save for a

contract to the contrary, would accrue due at the end of the month for which wages are due/claimed. Thus a suit for recovery of deficient salary for

the month of September / October, 1997, could have been filed latest by August / September, 2000. This writ petition, claiming the relief of recovery of money due towards arrears of wages, has been filed after 21 years and is highly belated and suffers from laches, acquiescence and waiver. So much so that most of the petitioners have since retired.

8. In our view, such a claim which the petitioners, for the last over 20 years have not agitated and have slept over, cannot be permitted to be made

now. Reference in this regard may be made to *Salonah Tea Co. Ltd. Vs Superintendent of Taxes, Nowgong* (1988) 1 SCC 401, *Union of India Vs.*

Tarsem Singh (2008) 8 SCC 648, *Virender Chaudhary Vs. Bharat Petroleum Corporation* (2009) 1 SCC 297, *State of Orissa Vs. Mamata Mohanty*

(2011) 3 SCC 436, *Chennai Metropolitan Water Supply & Sewerage Board Vs. T.T. Murali Babu* (2014) 4 SCC 108, *Prabhakar Vs Joint Director,*

Sericulture Department (2015) 15 SCC 1 and *U.P. Power Corporation Vs. Ram Gopal* 2020 SCC OnLine SC 101. It is well settled principle of law

that delay repeats equity and that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied on the

ground of delay and laches, irrespective of the fact that the petitioner may be similarly situated to other candidates who obtained the benefit of the

judgment. The doctrine of delay and laches is not to be lightly brushed aside. The account books and budget of the government / respondents, cannot

be expected to remain open forever, with any claim, howsoever belated and time barred, being permitted to be made at any time.

9. As far as the reliance by the petitioners on the order dated 7th May, 2015 in the appeal preferred by All India Postal Employees Union is

concerned, a perusal of the said order shows the said proceedings to have had its genesis in Writ Petition No.8972/2004 before the High Court and

which writ petition was dismissed and whereagainst Supreme Court had been approached. The All India Postal Employees Union is thus found to

have been agitating its claim since the year 2004 i.e. from at least 17 years prior to today, if not from earlier. Merely because a claim made in the year

2004 and which was treated to be within reasonable time, has been allowed, would not entitle all others, even if similarly situated, to make belated

claims.

10. Supreme Court, in *Delhi Administration Vs. Gurdip Singh Uban* (1999) 7 SCC

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296, even in the matter of land acquisition, has held that only those land owners who preferred objections to acquisition would be entitled to challenge

the acquisition and even if acquisition was quashed in the writ petitions filed by such owners, the benefit thereof would not be available to other land

owners who did not file objections to the acquisition and who did not challenge the acquisition in the Court, even though acquisition of their land was

vide the same notification. Thus, merely because relief has been granted to members of All India Postal Employees Union, would not entitle the

petitioners, who are found to have slept over their rights, to the same relief.

11. The counsel for the petitioners then contends that the petitioners have also been knocking the doors of the respondents for the said relief.

12. However not a single representation if any made by the petitioners is cited and no attention drawn thereto. Moreover, it has been held in K.V.

Rajalakshiah Setty Vs. State of Mysore AIR 1965 SC 993, Jagdih Narain Maltiar Vs. State of Bihar (1973) 1 SCC 811, State of Orissa Vs.

Pyarimohan Samantaray (1977) 3 SCC 396, Gian Singh Mann Vs. High Court of Punjab and Haryana (1980) 4 SCC 266, Shiv Dass Vs. Union of

India (2007) 9 SCC 274 and Naresh Kumar Vs. Department of Atomic Energy (2010) 7 SCC 525, that merely making repeated representations is not

sufficient ground to condone inordinate delay in preferring writ petition.

13. The counsel for the petitioners, as a last resort states, that in another similar petition, notice has been issued by this Court and the same is pending.

However neither is any order in the said petition placed on record nor is the counsel for the petitioner able to furnish any particulars thereof. In our

opinion, even if any such similar petition is pending, the same would also not entitle the petitioners to issuance of notice of this petition which is found

to be highly belated and suffering from laches, acquiescence and waiver. We may also mention that the Supreme Court, in the order in All India

Postal Employees Union supra has not given any reasons and has only granted relief in the facts of that case.

14. No ground for entertaining the petition is made out.

15. Dismissed.