

(2024) 10 SHI CK 0021
In the High Court Of Himachal Pradesh
Case No : CWP No. 12221 Of 2024

Ramesh Kumar

APPELLANT

Vs

State Of HP And Others

RESPONDENT

Date of Decision : 29-10-2024

Acts Referred:

Citation : (2024) 10 SHI CK 0021

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Rajesh Verma, Rajat Chauhan

Final Decision : Dismissed

Judgement

Ajay Mohan Goel, J

1. By way of this writ petition, the petitioner has prayed for the following reliefs:-

“(i) That the instant writ petition may kindly be allowed and the respondents may kindly be directed to extend the benefit of Grant-in-Aid in favour of the present petitioner at par with the similarly situated persons with all consequential benefits alongwith reengagement and take a decision in the light of the judgment passed by Hon'ble Court in CWP No. 2690/2019 titled as Raj Singh and Anr. Vs State of HP, Annexure P-3 without any discrimination.”

2. The case of the petitioner is that he was engaged by the School Management Committee of Government Middle School, Chaplandi, Tehsil Thunag, District Mandi, as a Drawing Master. His services were dispensed with by the respondents in November, 2020. Learned Counsel for the petitioner submits that the petitioner is entitled for grant-in-aid for the period he served with the Department and further he is also entitled for the relief of re-engagement.

3. Having heard learned Counsel for the petitioner and having carefully gone through the averments made in the writ petition as also the documents appended therewith, this Court is of the Considered view that this writ petition is

not maintainable as it is hit by delay and laches. Admittedly, the petitioner was disengaged in the month of November, 2020. This writ petition has been filed in this Court on 28.10.2024. Even if this Court was to order the benefit of grant-in-aid in favour of the petitioner, the monetary benefits in terms of the settled law are to be restricted up to three years preceding the date of filing of the writ petition, which in the present case comes as 28th October, 2021. Admittedly, the petitioner was not in service as on 28.10.2021. Thus, for preceding three years as from the date of filing of the writ petition, as the petitioner was not in service, he obviously is not entitled for any relief of grant-in-aid as is being prayed for.

4. As far as grant-in-aid relating to the earlier period before is disengagement is concerned, the same also cannot be ordered to be released as the petitioner is not in service nor this Court can grant any monetary benefits preceding three years as from the date of filing of the writ petition in terms of the law laid down by Hon'ble Supreme Court of India in *Shiv Dass vs. Union of India* (2007) 9 SCC 274 and *Union of India and others vs. Tarsem Singh*, (2008) 8 Supreme Court Cases 648.

5. In *Shiv Dass vs. Union of India* (supra), Hon'ble Supreme Court has been pleased to hold that the High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. Hon'ble Supreme Court further went on to hold that even in the case of pension, the cause of action actually continues from month to month, however, that cannot be a ground to overlook delay in filing the petition and it would depend upon the fact of each case and if petition is filed beyond a reasonable period say three years normally, the Court would reject the same or restrict the relief which could be granted to a reasonable period of about three years.

6. In *Union of India and others vs. Tarsem Singh*, after referring to its judgment in *Shiv Dass vs. Union of India* (supra), Hon'ble Supreme Court reiterated that normally, a belated service related claim will be rejected on the ground of delay and laches where remedy is sought by filing a writ petition. Hon'ble Supreme Court went on to hold that one of the exceptions to the said rule is cases relating to a continuing wrong. It further went on to hold that if the claim involved issues relating to seniority or promotion, etc. affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. In so far as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply and as a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.

7. As far as the relief of reengagement is concerned, said relief also in the considered view of this Court is hit by delay and laches. The petitioner was

disengaged in the month of November, 2020. No cogent explanation has been given by him as to why he is approaching the Court after a gap of four years.

6. In view of above discussion, as this Court is of the considered view that the reliefs being prayed for the petitioner are hit by delay and laches, accordingly, this petition is dismissed. Pending miscellaneous application(s), if any, also stand disposed of accordingly.