
(2020) 01 JH CK 0316

In the Jharkhand High Court

Case No : Writ Petition (S).No. 6708 of 2019

Sheonath Yadav @ Sheonath Singh Yadav

APPELLANT

Vs

State of Jharkhand And Ors

RESPONDENT

Date of Decision : 24-01-2020

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2020) 01 JH CK 0316

Hon'ble Judges : Dr S. N. Pathak, J

Bench : Single Bench

Advocate : Nil Kamal, Kaushalendra Prasad, Sayed Ramiz Zafar

Final Decision : Dismissed

Judgement

1. Heard the parties.

2. Petitioner has approached this Court with a prayer for direction upon the respondents to produce/ release the documentary evidence based on which the departmental proceeding No. 46 of 19868 dated 28.01.1969 was initiated against the petitioner and as a result thereof, impugned order of dismissal has been passed. Further prayer has been made for quashing the order dated 28.01.1969, passed in so-called departmental proceeding and after quashing the same, direct the respondents to release the consequential service benefits to the petitioner.

3. Earlier the petitioner had moved this Court in C.W.J.C. No. 3812 of 1996, which stood dismissed vide order dated 09.09.1997.

4. Bereft of unnecessary details, the brief facts of the case is that the petitioner was appointed as constable in Dhanbad district police in the year 1964. During his service period, in the year 1968, a charge-sheet dated 23.08.1968 was issued against the petitioner. It is alleged that on 08.04.1968, the petitioner visited Gult Ground about 500 yards west from the police line in the evening along with two other persons and committed robbery. Consequently, Dhanbad C.R. Case No. 115 of 1968 was instituted against the petitioner. It is further case

of the petitioner that after investigation, the police found that the case lodged against the petitioner was false and submitted a report in court to that effect. However, the petitioner was prevented from performing his duty and he was told that a departmental proceeding was contemplated against the petitioner though no documentary evidences were supplied to the petitioner inspite of several request made by the petitioner to that effect. It is further case of the petitioner that surprisingly, vide order dated 28.01.1969, the petitioner was dismissed from the service of police force with effect from 28.01.1969 but the copy of the said order was supplied to the petitioner on 15.02.1996 that too without any memo or letter no. which cast serious doubt over the alleged departmental proceeding. Thereafter, the petitioner made application under RTI Act on 10.07.2017 through his counsel, requesting therein to supply authenticated copy of enquiry report and departmental proceeding initiated against the petitioner. In reply thereto, the Public Information officer issued memo No. 2103 dated 09.07.2018 to the counsel of the petitioner stating therein that the records of the said departmental proceeding is not available in the office.

Aggrieved by the same, petitioner has knocked the door of this Court.

5. Learned counsel appearing for the petitioner submits that the respondents are duty bound to supply the reasons for dismissing the petitioner from service and as such, the action of the respondents is irrational, arbitrary, discriminatory and bad in law. Learned counsel for petitioner further argues that the respondents have not given ample opportunity to the petitioner and passed the order of dismissal behind his back and as such, they have violated the principle of natural justice. The respondents have also not considered the report submitted by the police in criminal case instituted against the petitioner and as such, the order dated 28.01.1969 is fit to be quashed and set aside.

6. On the other hand, though no counter-affidavit has been filed, but learned counsel appearing for the respondents submits that this writ petition is barred by limitation as after almost 50 years of date of issuance of order of dismissal, petitioner has prayed for quashing of the said. Learned counsel further submits that Hon'ble Apex Court in catena of decision has held that no writ can be entertained after a gross delay and in the present case, the delay is of about 50 years. The petitioner is not vigilant of his rights and as such, no interference is warranted in the instant writ petition. Earlier the petitioner has also approached this Court in C.W.J.C. No. 3812 of 1996 and this Court, after hearing the parties at length, was pleased to dismissed the said writ petition vide its order dated 09.09.1997.

7. Be that as it may, having gone through the rival submissions of the parties, this Court is of the considered view that no interference is warranted in the instant writ petition. The order of dismissal was issued in the year 1969 and the present writ petition has been filed in the year 2019 praying for quashing of the said dismissal order. Admittedly, after a gross delay of about 50 years, the petitioner woke-up from deep slumber and filed the present writ petition for

quashing the order issued in the year 1969, which is barred by limitation and as such, no interference is required.

8. The Hon'ble Apex Court in case of Naib Subedar Lachhman Dass Vs. Union of India, reported in AIR 1977 SC 1979, has observed that "for the first time in September, 1970 the appellant invoked the extra-ordinary powers of the High Court under Article 226 of the Constitution for challenging the legality of an order dated 21.12.1966. The writ petition was filed after a gross delay for which there is no satisfactory explanation and, therefore, the High Court was justified in dismissing it summarily.

9. Further, the Hon'ble Apex Court in case of Chennai Metropolitan Water Supply and Sewerage Board & others Vs. T.T. Murali Babu, reported in (2014) 4 SCC 108, has held as under:

"Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant - a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis. In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons - who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."

10. As a sequitur to the aforesaid observations, rules, guidelines and judicial pronouncements, I find no merit in the instant writ application and accordingly, the same stands dismissed.