

(2024) 05 SHI CK 0070

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 3846 Of 2024

Tota Ram

APPELLANT

Vs

State Of Himachal Pradesh & Others

RESPONDENT

Date of Decision : 07-05-2024

Acts Referred:

Citation : (2024) 05 SHI CK 0070

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Sanjeev K. Suri, Vijay Kumar, Anup Rattan, Pushpinder Jaswal

Final Decision : Dismissed

Judgement

Ajay Mohan Goel, J

1. Notice. Mr. Pushpinder Jaswal, learned Additional Advocate General, accepts notice on behalf of the respondents.

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

“(i) That writ in the nature of certiorari may kindly be issued and the impugned order dated 03.12.2015, Annexure P-2, issued by the respondent No.3, may kindly be quashed and set aside.

(ii) That writ in the nature of mandamus may kindly be issued, whereby directing the respondents to grant the work charge status/regularization to petitioner immediately on completion of 8 years of daily wage service w.e.f. 01.01.2007 with 240 days in each calendar year, with all consequential benefits including pay fixation, pay arrears, increments, seniority and other benefits etc.”

2. The case of the petitioner is that he was initially engaged as a Majdoor on 01.04.1999. His services were regularized on 26.10.2009 after completion of ten years of daily wage service. He joined his duties as such on 27.10.2009. The petitioner filed CWP No.6452 of 2012, praying for conferment of work charge

status/regularization of service after completion of eight years of service. This Writ petition was disposed of by this Court by directing the respondent to consider the case of the petitioner in light of the judgment being relied upon by him by passing a reasoned and speaking order. Pursuant thereto, vide impugned Annexure P-2, dated 03.12.2015, the case of the petitioner has been rejected by the Authorities concerned by holding that the work charge status cannot be conferred upon the petitioner as the establishment ceases to be a work charged establishment. It is in these circumstances, the petitioner has approached this Court with the prayer that the order passed by the Competent Authority, dated 03.12.2015 be quashed and set aside and the petitioner be granted work charge status/ regularization upon completion of eight years of daily wage service w.e.f. 01.01.2007, with all consequential benefits.

3. This Court is of the considered view that the present petition is hit by gross delays and laches. The first prayer made in the Writ petition is for quashing of impugned order dated 03.12.2015. There is no justification that has come forth from the petitioner as to why this order, passed on 03.12.2015, was not assailed by the petitioner within some reasonable time and the same now stands assailed after more than eight years.

4. Hon'ble Supreme Court in Civil Appeal No.5027 of 2024, titled Mrinmoy Maity vs. Chhanda Koley and others, decided on 18.04.2024, has been pleased to hold as under:

" An applicant who approaches the the Court belatedly or in othr words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delays defeats equity. Delay or laches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Arti9cle 226 of thye Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicvant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action."

5. This judgment has been given by Hon'ble Supreme Court by referring to the earlier adjudication made by it in Chennai Metropolitan Water Supply & Sewerage Board and others vs. T.T. Murali Babu, (2014) 4 SCC 108. In Para-16 thereof, Hon'ble Supreme Court was pleased to hold as under:-

"16. 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.”

6. Coming to the facts of this case, herein the petitioner has challenged the order passed by the Authority concerned after a lapse of eight years. There is no justifiable reasoning spelled out in the petition as to what prevented the petitioner from approaching the Court within reasonable time. Even the submissions made in this regard by learned counsel do not appeal to the conscious of this Court, because subsequent adjudications in similar matters cannot obliterate the fact that the petitioner has not assailed the order that was passed in his case by the Authority concerned for eight years.

7. Therefore, as the petition is hit by delays and laches, the same is ordered to be dismissed, so also the pending miscellaneous applications, if any.