(2006) 08 AHC CK 0273

Allahabad High Court

Case No: Civil Misc. Writ Petition No. 417352 of 2006

Ghanshyam Das Agrawal		APPELLANT
	Vs	
State of U.P., Managing Director, U.P. Jal Nigam, Chief Engineer (Personnel), U.P. Jal Nigam, and Superintending Engineer		RESPONDENT

Date of Decision: Aug. 17, 2006

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2007) 1 AWC 160 : (2006) 111 FLR 179

Hon'ble Judges: D.P. Singh, J

Bench: Single Bench

Advocate: Rajiv Lochan Shukla, for the Appellant; Q.H. Siddiqui and S.C., for the Respondent

Final Decision: Dismissed

Judgement

D.P. Singh, J.
Heard counsel for the parties.

2. This petition is directed against an order dated 28.2.2002 by which the integrity of the petitioner has been withheld for the year 1996-97 with the stoppage of two annual increments permanently.

3. Learned Counsel for the respondent has raised a preliminary objection that the writ petition is hit by laches as it has been filed more than four years after the passing of the order. The explanation given in the writ petition is that he was served

with the aforesaid impugned order on 26.3.2002 and he had made a representation on 25.5.2002. In the supplementary affidavit it is contended that after the said representation another representation was given on 8.12.2004. It is also stated that the aforesaid order alongwith other entries were made basis of an order dated 30.7.2005 by which the petitioner was compulsorily retired from service and thus the order of compulsorily retirement was challenged by him in writ petition No. 61474 of 2005 wherein he had prayed that his representation may be decided but the writ Court dismissed his petition vide order dated 5.5.2006 and since the cause of action is different, this petition should be heard on merit.

4. A copy of the judgment of the aforesaid writ petition is on record which shows that the present impugned order was taken note off by that Court but it neither quashed the said order nor issued any direction for decision of the alleged representation.

5. Mere filing of non-statutory and unsolicited representation cannot be taken as a defence or explanation for laches. The petitioner took no statutory or constitutional recourse, firstly for about three years till the compulsory retirement order was passed on 30.7.2005 and even during the period of pendency of the writ petition for about a year. The Apex Court about two scores of years ago in K.V. Raja Lakshmiah Shetty and Anr. v. State of Mysore and Ors. AIR 1967 SC 993 had held that such explanation of extra legal remedy cannot be entertained for explaining the delay and laches. This view was also reiterated in Gian Singh Mann Vs. High Court of Punjab and Haryana and Another, . No doubt this Court under its extraordinary jurisdiction is not barred in exercising its powers, but only in deserving cases. In the present case where the petitioner is a Junior Engineer and is well acquainted of his rights, sleeps over a serious punishment for years without any plausible reason and awakens only when death knell of compulsory retirement is sounded, does not qualify for any interference under Article 226 of the Constitution of India.

6. For the reason above, the Court is not inclined to exercise its extraordinary discretionary jurisdiction under Article 226 of the Constitution of India. Rejected.