

(2011) 09 AHC CK 0403

Allahabad High Court

Case No: Service Single No. 6461 of 2011

Prem Naraian Gupta

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: Sept. 15, 2011

Acts Referred:

- Constitution of India, 1950 - Article 226

Hon'ble Judges: Devendra Kumar Arora, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Devendra Kumar Arora, J.

Heard Learned Counsel for the parties.

2. By means of present writ petition, the Petitioner is seeking a writ of mandamus thereby commanding the Respondents to provide the benefit of Government Order dated 08.03.1995 as well as to make payment of arrears after providing benefit of the said Government Order.

3. It is admitted position that the Petitioner is about 74 years of age and has attained the age of superannuation on 31.07.1996. No. reasons have been explained for not approaching this Court at the relevant time. The only explanation is given that he was making representation before the authorities concerned.

4. The Hon"ble Supreme Court in the case reported in [S.S. Balu and Another Vs. State of Kerala and Others](#), pleased to observe as under:

It is also well settled principle of law that "delay defeats equity". The Government Order was issued on 15.01.2002. The Appellants did not file any writ application questioning the legality and validity thereof. Only after the writ petitions filed by others were allowed and the State of Kerala preferred an appeal there against, they impleaded themselves as party-Respondents. It is now a trite law that where the writ

Petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment. It is, thus, not possible for us to issue any direction to the State of Kerala or the Commission to appoint the Appellants at this stage.

5. Similarly, the Hon"ble Supreme Court in the matter of [New Delhi Municipal Council Vs. Pan Singh and Others](#), held as under:

16. There is another aspect of the matter which cannot be lost sight of. The Respondents herein filed a writ petition after 17 years. They did agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction. (See [Government of West Bengal Vs. Tarun K. Roy and Others](#), [Chairman, U.P. Jal Nigam and Another Vs. Jaswant Singh and Another](#), and [Karnataka Power Corporation Limited through its Chairman and Managing Director and Another Vs. K. Thangappan and Another](#),

17. Although, there is No. period of limitation provided for filing a writ petition under Article 226 of the Constitution of India, ordinarily, writ petition should be filed within a reasonable time. (See [Lipton India Ltd. and Others Vs. Union of India \(UOI\) and Others](#), and [M.R. Gupta Vs. Union of India and others](#),

18. In Shiv Dass v. Union of India this Court held: (2007) 9 SCC 277, paras 9-10).

9. It has been pointed out by this Court in a number of cases that representations would not be adequate explanation to take care of delay. This was first stated in K.V. Rajalakshmiah Setty v. State of Mysore. There is a limit to the time which can be considered reasonable for making representations and if the Government had turned down one representation the making of another representation on similar lines will not explain the delay. In State of Orissa v. Pyarimohan Samantaray making of repeated representations was not regarded as satisfactory explanation of the delay. In that case the petition has been dismissed for delay alone. (See also [State of Orissa and Others Vs. Shri Arun Kumar Patnaik and Others](#),

10. In the case of pension the cause of action actually continues from month to month. That, however, cannot be ground to overlook delay in filing the petition. It would depend upon the fact of each case. 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. The High Court

did not examine whether on merit the Appellant had a case. If on merits it would have found that there was No. scope for interference, it would have dismissed the writ petition on that score alone.

In view of the above, this Court do not find any good reason to interfere with the matter after the lapse of about 15 years.

Accordingly, the writ petition is dismissed.