

(OPEN COURT)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH ALLAHABAD

This is the 14th day of September, 2018.

**Misc. Contempt Petition No. 330/00165 of 2018
In
ORIGINAL APPLICATION NO. 1192 of 2005**

Present:

HON'BLE MR RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. MOHD. JAMSHED, MEMBER (A)

R.N. Singh S/o Late Mangroo Singh, R/o 226/1-A/48A, Lal Bagh Colony,
Rajrooppur, District Allahabad.

.....Applicant.

By Advocate: Shri H.C. Shukla

VERSUS

1. Wishwesh Chaube, General Manager, (Representing Union of India), Northern Railway Baroda House, New Delhi.
2. Jagdeep Rai, Chief Administrative Officer (C.A.O), Kashmiri Gate, New Delhi.
3. Deelip Kumar, Deputy Chief Engineer (Executive Engineer), Concrete Sleeper Plant, (C.S.P) Allahabad.
4. Santosh Kumar Gupta, Deputy Chief Engineer, North Central Railway, Allahabad.
5. Ashwani Lohani, the Secretary Railway Board, Ministry of Railway, Government of India, 241 Rail Bhawan, New Delhi.
6. Satish Kumar Rai, the Divisional Railway Manager, Lucknow, Northern Railway.

.....Respondent

ORDER

BY HON'BLE MR RAKESH SAGAR JAIN, MEMBER (J)

1. The present application has been filed by petitioner R.N. Singh that he had filed OA No. 1192 of 2005 in this Tribunal which was disposed of vide order dated 12.12.2013 by observing that –

“11. In view of the above, the applicant is directed to file a fresh representation as well as copy of the acquittal order whereby, according to him, the vigilance case against him

has been closed, within a period of two weeks from the date of receipt of certified copy of this order. If no representation is received within the stipulated time, the representation filed before the Tribunal and the supporting documents made available will be treated as representation by the respondent, pursuant to the order. The respondents shall consider the same and pass a reasoned and speaking order on the relief/s prayed for before this Tribunal, inter alia, keeping the foregoing observations of this Tribunal as contained in para 8, 9 and 10 of this order, within a period of three months thereafter".

2. It appears that petitioner filed contempt application No. 116 of 2014 which was decided vide order dated 22.11.2016 wherein it was observed that-

"9. Without touching the merit of the case, we thought it proper that this contempt petition is not maintainable as per the submissions made by the learned counsel for respondents. Hence this CCP is dismissed with liberty to the applicant to file fresh contempt petition against the respondents who is competent to comply with the order passed by this Tribunal. Notices are discharged".

3. The present contempt application has been filed on 12.09.2018, which is apparently barred by period of limitation. As per Section 20 of Contempt of Courts Act, 1971 the period for initiation any proceeding for contempt is one year. In this regard, Section 20 of Contempt of Courts Act, 1971 reads as under-

*"20. **Limitation for actions for contempt-** No Court shall initiate any proceedings for contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed".*

4. To a query put to the learned counsel for the applicant regarding the application being barred by period of limitation, he submitted that he had filed the representation in the year 2014 (Annexure 4) and, therefore, he did not file the present application in terms of order dated 22.11.2016 till now. It is apparent that representation was filed in the year 2014 and has nothing to do with the order dated 22.11.2016 passed in the contempt application wherein applicant was given a liberty to file fresh contempt petition.
5. We have heard and considered the argument of learned counsel for applicant and gone through the material on record.
6. It is apparent that there has been a great deal of delay by the applicant in filing the present contempt application which is also barred by period of limitation in terms of Section 20 of Contempt of Courts Act, 1971.
7. On the question of delay in filing a matter in the Court, it has been held in Maharashtra State Road Transport Corporation v. Balwant Regular Motor Service, Amravati and others[AIR 1969 SC 329] the Court referred to the principle that has been stated by Sir Barnes Peacock in Lindsay Petroleum Co. v. Prosper Armstrong Hurd, Abram Farewall, and John Kemp[(1874) 5 PC 221], which is as follows:-

“Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted in either of these cases, lapse of time and delay are most material. But in every case, if an

argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy."

14. In *State of Maharashtra v. Digambar*[(1995) 4 SCC 683], while dealing with exercise of power of the High Court under Article 226 of the Constitution, the Court observed that power of the High Court to be exercised under Article 226 of the Constitution, if is discretionary, its exercise must be judicious and reasonable, admits of no controversy. It is for that reason, a person's entitlement for relief from a High Court under Article 226 of the Constitution, be it against the State or anybody else, even if is founded on the allegation of infringement of his legal right, has to necessarily depend upon unblameworthy conduct of the person seeking relief, and the court refuses to grant the discretionary relief to such person in exercise of such power, when he approaches it with unclean hands or blameworthy conduct.

15. In *State of M.P. and others etc. etc. v. Nandlal Jaiswal and others etc. etc.*(AIR 1987 SC 251) the Court observed that:

"it is well settled that power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic."

It has been further stated therein that: "if there is inordinate delay on the part of the petitioner in filing a petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction."

Emphasis was laid on the principle of delay and laches stating that resort to the extraordinary remedy under the writ jurisdiction at a belated stage is likely to cause confusion and public inconvenience and bring in injustice.

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.

17. 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".

8. In the present case undoubtedly applicant was given liberty by the Tribunal vide order dated 22.11.2016 to file a fresh contempt petition against the respondents. The applicant ought to have filed the contempt application within a reasonable period but he has filed the said application after a period of almost one and half year, therefore, clearly hit by delay and laches. Accordingly, we find that there is no good ground to entertain this contempt application, which is highly belated and is dismissed.

(Mohd. Jamshed

Member (A)

(Rakesh Sagar Jain)

Member (J)

Manish/-