

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 2846/2017

Anand Shankar S/o Shri Gulabchand, aged 64 years, R/of Near
Kala Keshavram Kunwa, Bikaner

-----Petitioner

Versus

1. The Jodhpur Vidhyut Vitran Nigam Limited, Jodhpur
Through Managing Director.
2. The Superintendent Engineer (BC), Jodhpur Vidhyut
Vitran Nigam Limited, Bikaner.
3. The Executive Engineer (City), Jodhpur Vidhyut Vitran
Nigam Limited, Bikaner.
4. The Assistant Engineer D-II, JVVNL, Bikaner.

-----Respondents

For Petitioner(s) : Mr. M.S. Purohit
For Respondent(s) : Mr. Vikram Choudhary

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

PRONOUNCED ON

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22 /09/2022

RESERVED ON

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19/09/2022

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

"(a) By an appropriate writ, order or direction the
impugned order dated 04.10.2016 (Annex.12) may
kindly be quashed and set aside;

(b) By an appropriate writ, order or direction the
respondent may be directed to grant the pay scale
No.2 of Helper-I w.e.f. 01.04.1974 to petitioner
pursuant to Hon'ble Court order dated 14.05.1992
with all consequential benefits regarding salary and
arrears in cash payment.

(c) By an appropriate writ, order or direction the respondent may be directed to grant the arrears of retrial benefits and pension after granting all benefits as the same was granted to his junior Mohd. Haneef in compliance of Hon'ble Court order dated 14.05.1992;

(d) Any other order or direction, which this Hon'ble Court deemed just and proper be passed in favour of the petitioner.

(e) Costs of this petition may kindly be allowed to the petitioner."

It has been pleaded that the petitioner was initially appointed as casual labourer in the respondent-department w.e.f. 01.05.1971. The petitioner was given regular status of Helper-II in the year 1974. On completion of 15 years of continuous satisfactory services, as Helper-II, the petitioner was given designation of SSA-III by an order dated 12.11.1991.

Learned counsel for the petitioner further pleaded that pursuant to the order dated 14.05.1992 passed by the coordinate Bench this Court in **S.B. C.W. No.1056/1988 (Mohd. Haneef Vs. RSCB & Ors.)** person junior to the petitioner namely, Mohd. Haneef was held to be entitled to Pay Scale No.2 of the Helper-I w.e.f. 01.04.1974 as recommended by the Pay Fixation Committee. Counsel therefore, urged that the petitioner being senior to the aforementioned employee should also be extended benefits of Pay Scale No.2 of the Helper-I w.e.f. 01.04.1974.

Per contra, learned counsel for the respondents submitted that the present writ petition has been filed seeking grant of Pay Scale No.2 of Helper-I w.e.f. 01.04.1974, after an unexplained inordinate delay of more than 40 years, therefore, the present writ petition deserves to be dismissed solely on the ground of delay

and laches. It was also submitted that the petitioner has preferred the present writ petition after four years of retirement. The counsel urged that the petitioner cannot claim parity in relation to above-mentioned employee, who was granted relief by this Court vide order dated 14.05.1992, as he was working as Helper-I and the Pay Fixation Committee vide communication dated 12.09.1995 made recommendation that he was entitled for the Pay Scale No.2 of Helper-I.

Heard learned counsel for the parties and perused the material available on record.

In the case of ***State of T.N. v. Seshachalam***, reported in **(2007) 10 SCC 137**, the Hon'ble Supreme Court while testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, held as under:-

"...filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant."

It is a settled law that the Court does not come to the rescue of those who are not vigilant about their rights. Even equity has to be claimed at the right juncture and not after expiry of reasonable time.

It is also noticed that Mohd. Haneef, against whom parity has been claimed in the present writ petition, was working on the post of Helper-I in the respondent department. Therefore, pursuant to the recommendation of Pay Fixation Committee, Pay Scale-2 of Helper-I was conferred upon him. The case of the petitioner is thus, neither similar nor comparable to the case of Mohd. Haneef.

In view of the aforesaid discussion, in the considered opinion of this Court, the delay of more than 40 years in filing of the present writ petition does not deserve any indulgence and on the said ground alone, the instant writ petition deserves to be dismissed.

Accordingly, the writ petition is dismissed on delay and so also on merits.

(KULDEEP MATHUR),J

100-Ravi Kh/-



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