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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8457/2021 & CM APPL. 26191/2021

MRS BIRMATI WD OF LATE CT DVR JAGBIR SINGH

..... Petitioner

Through: Mr. Rajesh Nandal, Advocate.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Shashank Bajpai with
Mrs. Shakun Sudha Shukla and
Mr. Dhananjay Tewari, Advocates for
UOI.

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Date of Decision: 16th August, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J: (Oral)

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed seeking directions to the respondents to grant family pension to the petitioner from the date of declaration of deceased husband as deserter from CRPF and grant all associated financial and other benefits including an interest at the rate of 10% on the arrears as due.

3. Learned counsel for the Petitioner states that the Petitioner's husband was a constable in the CRPF who was declared deserter by the CRPF and consequent thereto he was dismissed from service in absentia. He points out that after the Petitioner's husband's death, the Petitioner sent a request to the respondents for grant of compassionate allowances and subsequently filed writ petition for the same i.e. W.P. (C) No. 9400/2015 before this court seeking grant of family pension. However, he points out that vide order dated 05th October, 2015, the said writ petition was dismissed as withdrawn with liberty to the petitioner to approach the respondents with a representation for compassionate allowance or pension.

4. He states that since the representations dated 20th October, 2015 and 16th January, 2016 were to no avail, the Petitioner preferred W.P. (C) 13928/2019 which was subsequently withdrawn on 24th December, 2019 with liberty to file a proper petition explaining the delay in approaching the court for relief.

5. He emphasises that the delay occurred due to the Petitioner's poor financial condition and deteriorating health.

6. We have heard learned counsel for the parties and also gone through the documents placed on record. Along with present writ petition no medical documents have been annexed in order to show that the petitioner was either suffering from prolonged illness or she has a deteriorating health.

7. In fact Petitioner's husband was declared a deserter by the CRPF and dismissed from service in absentia as far back as in July, 1993.

8. The Supreme Court in the case of *Chairman/Managing Director, U.P. Power Corporation Ltd. & Ors. vs. Ram Gopal, 2020 SCC OnLine SC 101* has held that delay defeats equity and law favours the vigilant and not

the indolent. The relevant portion of the said judgment is reproduced hereinbelow:-

“16. Whilst it is true that limitation does not strictly apply to proceedings under Articles 32 or 226 of the Constitution of India, nevertheless, such rights cannot be enforced after an unreasonable lapse of time. Consideration of unexplained delays and inordinate laches would always be relevant in writ actions, and writ courts naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester. Fencesitters cannot be allowed to barge into courts and cry for their rights at their convenience, and vigilant citizens ought not to be treated alike with mere opportunists. On multiple occasions, it has been restated that there are implicit limitations of time within which writ remedies can be enforced. In SS Balu v. State of Kerala, this Court observed thus:

“17. It is also well-settled principle of law that “delay defeats equity”. ...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.”

17. Similarly, in Vijay Kumar Kaul v. Union of India this Court while considering the claim of candidates who, despite being higher in merit, exercised their right to parity much after those who were though lower in merit but were diligently agitating their rights, this Court observed that:

“27. ...It becomes an obligation to take into consideration the balance of justice or injustice in entertaining the petition or declining it on the ground of delay and laches. It is a matter of great significance that at one point of time equity that existed in favour of one melts into total insignificance and paves the path of extinction with the passage of time.”

9. It has also been repeatedly held by the Supreme Court that repeated representations by the petitioner would not extend the time period to file the writ petition. Consequently, this Court is of the view that the petitioner after a lapse of nearly twenty eight years of dismissal of service of her deceased husband cannot ask for family pension and other benefits along with interest. Accordingly, the present writ petition along with pending application is dismissed on the ground of laches.

10. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

NAVIN CHAWLA, J

AUGUST 16, 2021
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