

**THE HIGH COURT OF MADHYA PRADESH**  
**W.P. No. 20149/2019**  
**Maqsood Khan vs. State of MP**

**Gwalior, Dated :31/07/2020**

Shri Prashant Sharma, Counsel for the petitioner

Shri C.P. Singh, Counsel for the State

Heard finally through Video Conferencing.

This petition under Article 226 of the Constitution of India has been filed seeking the following relief(s):-

I. That, the order Annexure P/1 may kindly be quashed and respondent be directed to extend the benefit to petitioner w.e.f. 1.1.2006, the date on which the work charge and contingency status has been assigned to the petitioner.

It is the case of the petitioner, that he was appointed with the Education Department in the year 1990. On 28-12-2005 (wrongly mentioned as 28-12-2015 in writ petition), the respondent passed an order making the petitioner as member of work charge and contingency and fixed in the pay scale of 2550.00-3,200.00. Thereafter, by order dated 30-5-2013 (Annexure P/1), the petitioner was regularized in the Work Charge and Contingency Pay and was mentioned that he shall be entitled for minimum pay scale. It is submitted by the Counsel for the petitioner, that similarly placed employees had challenged the order dated 30-5-2013 by W.P. No. 954 of 2015 which was decided by this Court by order dated 14-10-2019.

Accordingly, by order dated 14-7-2020, the State Counsel was

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directed to verify as to whether the case is covered by the  
aforementioned order or not?

Today, it is submitted by the Counsel for the respondent/State  
that although the order dated 14-10-2019 passed in W.P. No. 954 of  
2015 covers the present case also, but this petition is hopelessly  
barred by delay and laches and since, the petitioner was sleeping  
over his rights, therefore, he is not entitled for the fruits of the order  
dated 14-10-2019 passed in W.P. No. 954 of 2015.

Heard the learned Counsel for the parties on the question of  
delay and laches.

By this petition, the petitioner is seeking relief w.e.f. 1.1.2006.  
The impugned order was passed on 30-5-2013 whereas this petition  
was filed on 19-9-2019. In Clause 4 of the writ petition, the  
petitioner has given an explanation that he has come to know that  
similarly placed employees have filed a writ petition, therefore, the  
present petition is being filed.

Now, the question for consideration is that whether an  
employee can get over the question of delay and laches only by  
saying that other employees had filed the writ petition?

The Supreme Court in the case of **State of Orissa Vs. Mamata Mohanty** reported in (2011) 3 SCC 436 has held as under :

**54.** This Court has consistently rejected the

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contention that a petition should be considered ignoring the delay and laches in case the petitioner approaches the Court after coming to know of the relief granted by the Court in a similar case as the same cannot furnish a proper explanation for delay and laches. A litigant cannot wake up from deep slumber and claim impetus from the judgment in cases where some diligent person had approached the Court within a reasonable time. (See *Rup Diamonds v. Union of India*, *State of Karnataka v. S.M. Kotrayya* and *Jagdish Lal v. State of Haryana*.)

The Supreme Court in the case of **Jagdish Lal Vs. State of Haryana** reported in **(1997) 6 SCC 538** has held as under :

**18.** That apart, as this Court has repeatedly held, the delay disentitles the party to the discretionary relief under Article 226 or Article 32 of the Constitution. It is not necessary to reiterate all the catena of precedents in this behalf. Suffice it to state that the appellants kept sleeping over their rights for long and elected to wake up when they had the impetus from *Virpal Chauhan* and *Ajit Singh* ratios.....

The Supreme Court in the case of **State of Karnataka v. S.M. Kotrayya**, reported in **(1996) 6 SCC 267** has held as under :

**9.** Thus considered, we hold that it is not necessary that the respondents should give an explanation for the delay which occasioned for the period mentioned in sub-sections (1) or (2) of Section 21, but they should give explanation for the delay which occasioned after the expiry of the aforesaid respective period applicable to the appropriate case and the Tribunal should be

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required to satisfy itself whether the explanation offered was proper explanation. In this case, the explanation offered was that they came to know of the relief granted by the Tribunal in August 1989 and that they filed the petition immediately thereafter. That is not a proper explanation at all. What was required of them to explain under sub-sections (1) and (2) was as to why they could not avail of the remedy of redressal of their grievances before the expiry of the period prescribed under sub-section (1) or (2). That was not the explanation given. Therefore, the Tribunal is wholly unjustified in condoning the delay.

In the present case also, the petitioner has tried to explain the delay of six and a half years by simply mentioning that as the other persons have filed the writ petition, therefore, he is also filing the writ petition. This explanation given by the petitioner cannot be treated as plausible explanation for ignoring the delay and laches. Further, the petitioner has sought the relief w.e.f. 1-1-2006 whereas the petition was filed in the month of September 2019.

Accordingly, this petition is **Dismissed on the ground of delay and laches.**

**(G.S. Ahluwalia)**  
**Judge**