

THE HIGH COURT OF SIKKIM : GANGTOK

(Civil Extraordinary Jurisdiction)

DATED : 24th April, 2024

SINGLE BENCH : THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

WP(C) No.21 of 2020

Petitioner : Kamal Das Rai

versus

Respondents : State of Sikkim and Others

Application under Article 226 of the Constitution of India

Appearance

Ms. Mon Maya Subba, Advocate for the Petitioner.

Mr. Thinlay Dorjee Bhutia, Government Advocate for the Respondents No.1.

None present for the Respondents No.2 and No.3.

JUDGMENT

Meenakshi Madan Rai, J.

1. The festering resentment of the Petitioner arises from the perception that he was treated differently from the Respondents No.2 and 3, in terms of the higher scale of pay granted to them although he had appeared for the same interview with them, for posts carrying the same scale of pay, in the year 1991. That, in the year 2017, to his consternation he discovered that the Respondents No.2 and 3 were drawing higher salary, than him, hence the grievances as detailed in the petition with the reliefs sought.

(i) The Petitioner's case is that the office of the Secretary, Printing and Stationary Department, Government of Sikkim, the Respondent No.1, in the year 1991 was set to modernize with new machinery and equipment, for which, requisite manpower for

technical posts of machineman, cameraman and platemaking man were to be recruited.

2. On 21-07-1991, the Petitioner, the Respondents No.2 and 3 along with other persons comprising a total of thirty-three candidates, with educational qualification of Class X pass, appeared for the interview so conducted. The Petitioner appeared fourth in the merit list for the posts detailed above and was selected to the post of machineman. The post of machineman carried a monthly salary of ₹ 1,030-1,680, in the pay scale of ₹ 1,030-25-1230-EB-30-1680, equivalent according to him, to the salary and pay scale of cameraman and platemaking man. Vide Office Order dated 19-08-1991 issued by the Respondent No.1, the Petitioner was appointed as machineman and by a similar order of the same date the Respondent No.2 was appointed as cameraman.

(i) Pertinently it may be noted that initially there were two Petitioners in the instant matter. Petitioner No.2 withdrew from the proceedings as reflected in the Order of this Court, dated 08-06-2022, hence only the Petitioner No.1 has pursued the matter.

(ii) It is further the Petitioner's case that on 27-05-2017, Bhim Chettri, the Petitioner's friend filed an application under the Right to Information Act, 2005 (RTI), seeking information regarding the scale of pay of the Respondents No.2 and 3 from the office of the Respondent No.1. The information sought by him was denied vide response, dated 22-06-2017. On appeal to the Appellate Authority, on 17-07-2017 against the said order, necessary documents were furnished to him on 17-08-2017, wherein the Petitioner came to learn that the Respondents No.2 and 3 were drawing a higher scale of pay at ₹ 1,200-1950 per

month, from the date of their joining service as against the Petitioner, who was only granted ₹ 1,030-1,680 per month. The Petitioner then made various verbal requests and representations to the Respondent No.1 to place him in the pay scale at par with the Respondents No.2 and 3, to no avail. The Petitioner also learnt that the Respondent No.2 herein had in the year 1997 filed a writ petition before this Court, being WP(C) No.32 of 1997, *Sashi Kumar Rai vs. State of Sikkim*, seeking the pay scale of ₹ 1,200-1950 instead of ₹ 1,030-1,680 granted to him. The Petitioner then sought for the entire records of the Writ Petition, which were made available to him by the Registry of this Court on 06-08-2019. The Writ Petition, as per the records, was disposed of as infructuous on 17-09-1998. That, in the counter affidavit to the WP(C) No.32 of 1997, it was categorically admitted, on oath, by the State-Respondent that all the persons who were appointed by the Respondent No.1, including the Petitioner and the Respondents No.2 and 3 were appointed without advertising the posts, on uniform scale of pay of ₹ 1,030-1680. Thereafter, the Petitioner again approached the Respondent No.1 on 08-08-2019 for consideration of grant of equal pay with the Respondents No.2 and 3, which they again failed to consider. That, the nature of duties discharged by the Petitioner and the Respondents No.2 and 3, as well as the educational qualification prescribed for the posts, being Class X pass, are similar, nevertheless the Petitioner has wrongfully been denied the same pay scale. It is claimed that the denial of equal pay for equal work is against the fundamental rights of the Petitioner which is enshrined in Articles 14, 16, 39(d) and 43 of the

Constitution of India. Hence, the Petitioner *inter alia* seeks the following reliefs:

- “I
- II. To kindly declare that the petitioners has not been treated equally (*sic.*) with Shri Shasi Kumar Rai and Shri Pull Man Tamang (Respondent No.2 and 3).
- III. To kindly direct the Respondent No.1 to enhance the petitioners Pay Scale at par with Respondent No.2 and 3, from the date of joining.
- IV. To kindly direct Respondent No.1 to give all the service benefits to the petitioners if their scale is revised at par with Respondent No.2 and 3, from the date of joining.
- V.”

3. The Respondent No.1 filed their Counter Affidavit to which Rejoinder was filed by the Petitioner. An additional Affidavit came to be filed by the Respondent No.1 averring that the Petitioner on his application dated 09-08-2022, seeking promotion was vide Order of the Respondent No.1, dated 24-01-2023, promoted to the post of senior machineman in the Level 10 of the Pay Matrix.

4. The Respondents No.2 and 3 opted to remain unrepresented throughout the proceedings although Notice was served on them.

5. Learned Counsel for the Petitioner while reiterating the facts as stated in the writ petition, contended that the Petitioner has been treated unjustly and his fundamental rights trampled upon. The appointment of the Petitioner and the Respondents No.2 and 3 was *sans* advertisement. That, the memorandum offering appointment to the Respondent No.2 dated 16-08-1991 was for the post of cameraman, with monthly pay reflected therein as ₹ 1,030-1680 in the pay scale of ₹ 1,030-25-1230-EB-30-1680. His Office Order, dated 19-08-1991 is also reflective of the same position as

above. Similarly, the Petitioner was appointed as machineman and his monthly pay as per his Office Order also of 19-08-1991 was in the same scale of pay as Respondent No.2. The Respondents No.2 and 3 although lacking the requisite qualification for the post of cameraman were appointed after relaxing the eligibility criteria and consequently on a lower scale of pay based on a Government decision. That, the pay scales were specified in the communication, dated 16-08-1991 and 19-08-1991 (*supra*). That, the Note Sheet of the Accounts-cum-Administrative Officer, dated 19-09-1996, filed by the Petitioner, reflects that the Works Manager, who was also a member of the Departmental Promotion/Appointment committee, had in his notes submitted that the posts of machineman, cameraman and platemaking man in the Offset Printing Press were equivalent. As per the technical authorities all the above three posts required the same degree of skill, labour, qualification and nature of duties, which was the reason for the DPC to have conducted a common examination for Class X passed candidates for the said posts, in the pay scale of ₹ 1,030-1680. The note categorically indicates that the department had not invited applications for the posts of cameraman in the pay scale of ₹ 1,200-1950, nor had the Respondent No.2 applied specifically for the said post. That, the note also indicated that the Respondents No.2 and 3 were not appointed as cameraman on the basis of merit as Krishna Tamang whose name appears first in the merit list was appointed in the post of platemaking man. In other words, the posts were allotted at random and not on merit. It was urged that the decision of the Respondent No.1 in enhancing the scale of the Respondent No.2 in such circumstances is arbitrary and

without basis. Hence, the reliefs sought by the Petitioner be granted.

6. Learned Government Advocate while opposing the contentions raised in the writ petition and the arguments advanced by Learned Counsel for the Petitioner, sought to clarify in the first instance that, the Petitioner on 09-08-2022 during the pendency of this writ petition had submitted an application to the Respondent No.1, requesting for promotion to the post of senior machineman, by upgradation from the present post of junior machineman held by him. The department on due consideration and on the recommendation of the Departmental Promotion Committee (DPC), vide order dated 24-01-2023, promoted the Petitioner to the post of senior machineman, in Level 10 of the Pay Matrix, which is equivalent to that of the Respondent No.2. Pursuant to the order, the Petitioner joined as senior machineman from the forenoon of 24-01-2023. That, once the relief claimed by him has been granted by the Respondent No.1, he cannot approbate and reprobate by first accepting the promotion thereafter, continue to pursue the reliefs in this Writ Petition having waived his right by acceptance of the promotion. On this count reliance was placed on ***Union of India and Others vs. N. Murugesan and Others***¹. Learned Government Advocate admitted that after the Respondent No.2 approached this Court in WP(C) No.32 of 1997 as the Petitioner, he was granted the higher pay scale of ₹ 1,200-30-1530-EB-35-1950, vide Office Order bearing No.364/Ptg. & Sty./98-99, dated 09-09-1998,. That, in fact on questions raised by the High Court during the pendency of the Writ Petition (*supra*), the State Government

¹ (2022) 2 SCC 25

had conceded that in the Cabinet Memo the scale of pay of cameraman (Respondent No.2 herein) was shown as ₹ 1,200-1950 and that the error regarding the scale actually being drawn was discovered at a later stage. Subsequent to such realization, the order dated 09-09-1998 was issued to the Respondents No.2 and 3 in terms of the Notification of 03-06-1991. That, to the contrary the Petitioner has approached this Court with his grievances only in the year 2020, much after the relief was granted to the Respondent No.2 in 1998 with no reasons accounting for the delay. That, his inaction indicates that he is guilty of delay and laches. It was also urged that higher pay scale cannot be granted retrospectively to the Petitioner, for which strength was drawn from **Commissioner of Income Tax (Central)-I, New Delhi vs. Vatika Township Private Limited**². Learned Government Advocate emphasized that the accuracy and dexterity of the jobs of cameraman and machineman vary and the volume of work even if deemed equal cannot be the sole criteria for grant of equal pay. There are qualitative differences with regard to responsibility of the two posts. The attention of this Court was invited to the Notification bearing No.10/Gen/Estt., dated 03-06-1991 which clarifies the various scale of pay of machineman at Sl. No.3 as ₹ 1030-1680 and of cameraman at Sl. No.5 as ₹ 1200-1950. The Petitioner was issued an offer of appointment for the post of machineman which he could have protested as per the terms delineated in the memorandum of offer of appointment. Having chosen to accept the offer of appointment with all its terms and conditions, including the scale of pay, he is estopped from claiming

² (2015) 1 SCC 1

a higher scale of pay that too retrospectively. That, the Petition lacking in merit, be dismissed.

7. After having heard the Learned Counsel for the parties at length and having perused the entire records placed before this Court, the question that requires determination is whether the Petitioner is entitled to salary in the pay scale of ₹ 1,200-30-1530-EB-35-1950 from the date of his joining in the post of machineman in terms of his Office Order bearing No._____(illegible)/Ptg. & Sty./, dated 19-08-1991.

8. The facts of the case having already been discussed above, for brevity, are not being reiterated. Notification No.10/Gen/Estt., dated 03-06-1991, which is relevant for the present purposes is reproduced hereinbelow;

NOTIFICATION

No.10/Gen/Estt.

Dated Gangtok, the 3rd June, 1991.

The Governor of Sikkim is pleased to sanction the creation of the following posts in the Printing and Stationary Department with immediate effect:-

Sl. No.	Name of the Post	Pay Scale	No. of Posts Sanctioned
(A)	Offset Unit		
1.	Works Manager	Rs.1820-3200	1 (One)
2.	Senior Machineman	Rs.1320-2040	1 (One)
3.	Machineman	Rs.1030-1680	2 (Two)
4.	Senior Cameraman	Rs.1320-2040	1 (One)
5.	Cameraman	Rs.1200-1950	2 (Two)
6.	Senior Plate makingman	Rs.1320-2040	1 (One)
7.	Plate makingman	Rs.1030-1680	1 (One)
8.	Design & Layout man	Rs.1320-2040	1 (One)
9.	D.T.P Operator	Rs.1320-2040	3 (Three)
10.	Typist	Rs.975-1550	1 (One)
(B)	Letterpress Section		
1.	Junior Engineer (Elec.)	Rs.1410-2300	1 (One)
2.	Compositor	Rs.840-1200	4 (Four)
3.	Machineman	Rs.840-1200	6 (Six)
4.	Binder	Rs.840-1200	7 (Seven)
(C)	General		
1.	Gardener	Rs.800-1060	1 (One)

The expenditure shall be debitable to the Budget Head 2058" Ptg. &Sty. (103) (1) 1, 2, & 3 (Plan).

By Order,

D. K. Pradhan
Deputy Secretary,
Establishment Department

(emphasis supplied)"

9. As per the notification, there were *inter alia* two sanctioned posts of machineman, two sanctioned posts of cameraman along with one sanctioned post of platemaking man. The fact that the Petitioner along with the Respondent No.2 applied for the posts on 16-04-1991 is revelatory of the fact that their applications were submitted post the issuance of the notification and thereby with implicit knowledge of the pay scales notified. It may be true that when the applicants had applied for the posts, no specific post was mentioned by them. Nevertheless, once the selection process was completed and the memorandum of offer of appointment issued to each of them by the Respondent No.1, followed by the individual order of appointment, the posts to which the Petitioner and the Respondents No.2 and 3 were appointed were categorically spelt out therein and this fact cannot be overlooked. The memorandum of the offer of appointment of the Respondent No.2 bearing no.60/Ptg. & Sty., dated 16-08-1991, offered him appointment in a temporary capacity to the post of cameraman in the Printing and Stationary Department, Government of Sikkim, on a monthly pay of ₹ 1,030-1680 in the pay scale of ₹ 1030-25-1230-EB-30-1680 (Non-Gazetted) with effect from the date of joining. The terms of appointment have been delineated thereunder. The office order which followed was issued on 19-08-1991 appointed the Respondent No.2 as cameraman in the relevant department on the pay scale of ₹ 1030-25-1230-EB-30-1680. The Petitioner has not filed his memorandum of offer of appointment for reasons best known to him, but apparently he made no protest when his Office Order dated 19-08-

1991 appointing him as machineman on a monthly pay of ₹ 1030-1680, in the pay scale ₹ 1030-25-1230-EB-30-1680.

(i) In 1997, the Respondent No.2 being aggrieved by the scale of pay (*supra*) granted to him as against the pay of ₹ 1,200-1950/- indicated in the Notification of 1991, was before this Court in a Writ Petition venting his grievances in which the Petitioner had no part nor did he seek impleadment as a party. During the course of the proceedings in the Writ Petition *supra*, the Court on 17-08-1998 directed the State-Respondents to submit their reply to the following queries raised by this Court *viz.*;

“1. The decision of the State Govt. for creation of the post of the Cameraman in the scale of Rs.1,200-1950 vide Annexure P-1 etc. against which the petitioner was appointed.

2. The proposals and notes in the relevant files for creation of the aforesaid post carrying the scale of Rs.1,200-1950 notified vide Annexure P-1.

3. If any error crept in while preparing the Cabinet Memo, the correct position regarding scale against the post of Cameraman be indicated in the notes and discussions in the file proposing creation of the post of Cameraman prior to issuance of Annexure P-1.

4. If the State Govt. made any change subsequent to the decision for creation of the post of Cameraman in the said scale at lower scale prior to the appointment of the petitioner, such notes and decisions of the Cabinet be made available.”

10. In response therefore, the Learned Assistant Government Advocate for the State- Respondent, vide his petition dated 27-08-1998, submitted the following information;

“3. That, in compliance to the aforesaid order dated 17.8.1998 the following informations are furnished:

(i) That with regard to the Query No.1, as to the decision of the State Government for creation of the post of cameraman in the scale of Rs.1200-1950, it is humbly submitted that in the Cabinet Memo, the scale of pay to be given to the Cameraman has been shown as Rs. 1200-1950 .

(ii) That, with regard to the Query No.2, as to the proposal and notes in the relevant file for creation of the post, it is humbly submitted that the said records are not traceable. However, in the Cabinet Memo, the scale of pay to be paid to the Cameraman has been shown as Rs. 1200-1950.

- (iii) That with regard to the Query No.3, as to the error that may have crept in while preparing the Cabinet Memo and the correct position regarding the scale against the posts of cameraman, it is humbly submitted that the said error regarding scale of pay was discovered at the latest stage as reflected in the comprehensive note of the **Accounts-cum-Administrative Officer, which has been annexed as Annexure-R6** to the Additional Counter filed on behalf of the State Respondent on 26.5.1998. " (emphasis supplied)

The note of the Accounts-cum-Administrative Officer *inter alia* referred to by the Learned Assistant Government Advocate hereinabove reveals, on pain of repetition that, the Government had approved the creation of thirty-three posts in the Printing and Stationary Department which was notified vide Notification bearing no.10/Gen/Estt., dated 03-06-1991 and duly published. The candidates applied for the notified posts. After conducting the interview, the Departmental Promotion Committee/Appointment Committee recommended five persons for appointment which to the appointment of the Petitioner and the Respondent No.2. It was also stated that the department had not invited applications specifically for appointment as cameraman, in the pay scale of ₹ 1,200-1950 nor had the Respondent No.2 applied so, for the post and a common test was conducted for the three categories with a uniform scale of pay of ₹ 1030-1680. The department had issued an offer of appointment and if the terms of appointment were acceptable, the selected applicants were to report to the Joint Director. The selected candidates accordingly completed the formalities and joined their duties. The scale of pay of ₹ 1,200-30-1530-EB-35-1950/- was sought only after three years by the Respondents No.2 and 3 therefore there was no reason to grant the claimed pay scale merely because it was published in the

Government Gazette. This document was annexed with the Government response to the queries (*supra*).

(i) On 28-08-1998, after the response of the Government dated 27-08-1998 was filed before this Court, the matter was taken up by the Court which recorded *inter alia* that the Director, Printing and Stationary Department, Government of Sikkim had addressed a letter to the Learned Counsel of the Petitioner (Respondent No.2 herein), informing that the Department was processing the case of the Petitioner for consideration and hence time of ten days was granted for the purpose. On 17-09-1998, the State-Respondent filed a copy of the office order, dated 09-09-1998, by which the Petitioner (Respondent No.2 herein) was deemed to have been appointed to the post of cameraman, in the pre-revised scale of ₹ 1200-30-1530-EB-35-1950 from the date of his appointment i.e., 21-08-1991. The Respondent No.3 herein was also granted the same relief vide the same Order of 09-09-1998. The Petition was consequently dismissed as being infructuous.

11. What is evident from the entire proceedings reflected hereinabove is that as the Notification of 03-06-1991 unequivocally notified that the two sanctioned posts of cameraman carried the pay scale of ₹ 1200-30-1530-EB-35-1950, the grievance of the Respondent No.2 as Petitioner in WP(C) No.32 of 1997, *Sashi Kumar Rai vs. State of Sikkim* before this Court seeking the scale as against ₹ 1030-1680 which was the scale being paid to him was not unjustified. The case of the Petitioner is distinguishable. The post of machineman as per the Notification to which post he was appointed, emphatically indicates the pay scale of ₹ 1030-25-1230-

EB-30-1680. The fact of a common interview for the three posts does not necessarily translate into similar duties, which in any event have not been delineated by the Petitioner before this Court, for perusal and consideration.

12. Learned Counsel for the Petitioner was insistent upon the principle of equal pay for equal work and to this end had drawn strength from the decision in **Randhir Singh vs. Union of India and Others**³ and **Deb Narayan Shyam and Others vs. State of W.B. and Others**⁴. The facts in the said matters are distinguishable from the facts herein. The decision in **Randhir Singh (supra)** dealt with the appointment of drivers and constable drivers. The Court concluded that there cannot be the slightest doubt that the drivers in the Delhi Police Force perform the same functions and duties as other drivers in the service of the Delhi Administration and the Central Government. That, it was an admitted position that the driver constables of the Delhi Police Force perform no less arduous duties than drivers in the departments. Therefore, there was no reason for giving them a lower scale of pay than the other drivers. The writ petition was allowed with a direction to the Respondents to fix the scale of pay of the Petitioner and the driver constables of the Delhi Police Force, on a par with that of the drivers of the Railway Protection Force.

(i) In **Deb Narayan Shyam (supra)** the questions involved were; (i) whether the Amins and Surveyors discharge the same duties or not; (ii) whether the Amins are entitled to the same pay scale and (iii) what is the effect of various decisions of the High Court of Calcutta treating Amins equivalent to Surveyors and

³ (1982) 1 SCC 618

⁴ (2005) 2 SCC 286

allowing them the same scales of pay. The Supreme Court observed that once it is found that the Amins and Surveyors discharge different functions and their qualifications are not the same, then there was no reason to give the Amins the same pay scale.

13. The Petitioner in the instant matter has failed to impress upon this Court as to how their duties are similar and entail equivalent responsibilities. No data or other information has been furnished by the Petitioner for this Court to examine. In the absence of any specifics with regard to duties discharged by the Petitioner and such duties being equivalent to those of cameraman this Court cannot run to his defence based on the qualification prescribed for the three posts being Class X pass and the fact that they faced the same interview. This also leads to the question of “approve and reprobate”, waiver and delay and laches raised by the State-Respondent. To approve and reprobate means to “blow hot – blow cold”. The Supreme Court in **Rajasthan State Industrial Development and Investment Corporation and Another vs. Diamond & Gem Development Corporation Limited and Another**⁵ observed that where one knowingly accepts the benefits of an order, he is estopped from denying the binding effect of such an order upon himself. In this context, the Petitioner having accepted Level 10 of the Pay Matrix granted by the Respondent No.1, he cannot seek further benefits by seeking retrospectivity of his scale of pay, which according to him should be placed at ₹ 1200-30-1530-EB-35-1950.

⁵ (2013) 5 SCC 470

14. Addressing the more important aspect of delay and laches in **Government of W.B. vs. Tarun K. Roy and Others**⁶, the Supreme Court was of the view that;

"34. The respondents furthermore are not even entitled to any relief on the ground of gross delay and laches on their part in filing the writ petition. **The first two writ petitions were filed in the year 1976 wherein the respondents herein approached the High Court in 1992.** In between 1976 and 1992 not only two writ petitions had been decided, but one way or the other, even the matter had been considered by this Court in *Debdas Kumar* [1991 Supp (1) SCC 138: 1991 SCC (L&S) 841: (1991) 17 ATC 261: 1991 AIR SCW 704]. The plea of delay, which Mr Krishnamani states, should be a ground for denying the relief to the other persons similarly situated would operate against the respondents. Furthermore, the other employees not being before this Court although they are ventilating their grievances before appropriate courts of law, no order should be passed which would prejudice their cause. In such a situation, we are not prepared to make any observation only for the purpose of grant of some relief to the respondents to which they are not legally entitled to so as to deprive others therefrom who may be found to be entitled thereto by a court of law."
(emphasis supplied)

15. In **State of Jammu and Kashmir vs. R. K. Zalpuri and Others**⁷, the Supreme Court while dwelling upon jurisdiction under Article 226 of the Constitution of India observed that the High Court while exercising its jurisdiction under Article 226 is duty bound *inter alia* to consider whether the person invoking the jurisdiction is guilty of unexplained delay.

16. In **Assistant Excise Commissioner and Others vs. Issac Peter and Others**⁸, it was held that;

"26. Doctrine of fairness or the duty to act fairly and reasonably is a doctrine developed in the administrative law field to ensure the rule of law and to prevent failure of justice where the action is administrative in nature. Just as principles of natural justice ensure fair decision where the function is quasi-judicial, the doctrine of fairness is evolved to ensure fair action where the function is administrative. But it can certainly not be invoked to amend, alter or vary the express terms of the contract between the parties....."

17. Most recently in **Mrinmoy Maity vs. Chhanda Koley and Others**⁹, the Supreme Court reiterated as follows;

⁶ (2004) 1 SCC 347

⁷ (2015) 15 SCC 602

⁸ (1994) 4 SCC 104

"11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. **If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong.** It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court."
 (emphasis supplied)

18. On the cornerstone of the principles enunciated hereinabove it falls to reason that undoubtedly the Petitioner is guilty of delay and laches apart from evidently not disclosing all relevant facts to the Court. The allegation of his ignorance of the Writ Petition *supra* filed by the Respondent No.2 in 1997, before the High Court is the first point regarding the truth of the matter, that needs to be mulled over, surprising as it is that he remained ignorant of the developments in his office and amongst his colleagues. Be that as it may, assuming that he was indeed ignorant of the facts, he has failed to shed light or detail reasons on why he failed to approach the Court earlier in time. The Petitioner has not deemed it essential to delineate reasons for his delay in approaching this Court. His friend allegedly lodged an RTI application in the year 2017 seeking details of the pay scales of the Petitioner's colleagues but no reason whatsoever emanates on this peculiar step taken by his friend seeking details of third persons with no apparent basis, when he is not even an aggrieved party.

⁹ 2024 SCC OnLine SC 551

19. It requires no reiteration that the Court is to satisfy itself as to whether the explanation offered is proper and satisfactory for the delay in approaching the Court. I find that the grounds put forth by the Petitioner, for the delay and for seeking the reliefs, do not call for exercising the discretion of this Court to alter the express terms of the Office Order, dated 19-08-1991, issued to the Petitioner. The inaction of the Petitioner from 1991 has not been explained, in fact even the delay from 1997 has merited no explanation from the Petitioner and it is beyond comprehension as to why he approached the Court only in 2020 even after he learnt of the higher pay scales of the Respondents No.2 and 3 in 2017 itself.

20. In the end result, in view of the foregoing elaborate discussions, I am constrained to determine that the Petitioner is not entitled to any of the reliefs claimed.

21. Petition stands dismissed and disposed of.

22. No orders as to costs.

(Meenakshi Madan Rai)
Judge

24-04-2024

Approved for reporting : **Yes**