



Serial No. 06
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No. 18 of 2024

Date of order: 13.06.2024

1. Smti. Amanda B. Basaiawmoit
2. Shri. Batskhem Myrboh
3. Shri. Kerlihok Lyngdoh Buam

... APPELLANTS

- VERSUS -

1. State of Meghalaya, represented by the Commissioner & Secretary to the Govt., of Meghalaya, Education Department, Shillong.
2. The Principal Secretary to the Government of Meghalaya, Education Department, Shillong.
3. The Joint Secretary to the Govt. of Meghalaya, Education Department, Shillong.
4. Director Higher & Technical Education, State of Meghalaya, Shillong.
5. Joint Director of Higher & Technical Education, State of Meghalaya, Shillong.
6. The Director, Directorate of Local Fund Audit, State of Meghalaya, Shillong.

...RESPONDENTS

Coram:

Hon'ble Mr. Justice S. Vaidyanathan, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellants : Mr. S. Sen, Adv. with
Ms. S. Shallam, Adv.

For the Respondents : Mr. K.P. Bhattacharjee, GA

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| i) | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |



JUDGMENT

(Made by Hon'ble, the Chief Justice)

The present appeal has been preferred against the order dated 06.03.2024 passed in WP(C) No. 246 of 2022.

2. The case of the appellants/writ petitioners is that they are the teachers in a deficit college and serving as Associate Professors and Assistant Professors has preferred a writ petition jointly on the ground that they have been placed at a higher stage of academic grade pay but they have been denied the increment which they are entitled to. According to the appellants/writ petitioners, there was a scheme in 2008 which recommended the grant of increment in terms of the 6th Central Pay Commission and though the Government of Meghalaya has adopted the said scheme on 31.12.2008, there was no payment made even though the same has also been accepted in terms of UGC norms as early as in the year 2010. According to the appellant/writ petitioners, the Professors are entitled to additional increment w.e.f. 2013 as could be seen from the representation dated 03.02.2020 made to the Principal. The relevant portion of the representation is extracted as follows:

“On the basis of the above facts, the denial of granting of 3 percent increment at the time of fixation of pay at the time of my placement on 16.04.2013 from the post Stage one Assistant professor (Grade Pay Rs. 6000.00) to the post of Stage II Assistant Professor (Grade Pay Rs. 7000.00) in the pay band of Rs. 15600-39100/- on whatsoever reason is in complete contravention to the MHRD letter dated 31.12.2008, UGC Regulations 2010, UGC



Clarification on UGC regulations 2010 dated 09/2015, Clause of the DHTE Order dated 23.03.2010 and Meghalaya F.R.23(i).”

3. Even though according to the appellants/writ petitioners, the Professors are entitled to 3 per cent increment at the time of fixation of pay and at the time of placement in the year 2013, there is no whisper till a representation dated 03.02.2020 has been made. From a typed set of documents, there appears to be another representation on 07.02.2020 requesting for granting additional/promotional increment at the time of placement from post Stage I Assistant Professor (Grade Pay Rs.6000.00) to the post of Stage II Assistant Professor (Grade Pay Rs.7000.00) in the pay band of Rs.15600-39100/- during the 6th Pay and re-fixation of pay. The additional increment which the appellant/writ petitioners claim is not a continuous one. The cause of action is not continuous and it has no bearing with regard to the grant of other benefits as it is not going to affect the terms of benefits including pensionary benefits, if any.

4. Taking note of the fact that there is a delay of more than eight years in making a representation, the learned Single Judge after referring to various judgments came to the conclusion that no relief can be granted. The representation has been made only in the year 2020 when according to the appellants/writ petitioners they are entitled to benefits as early as 2013. On the sole ground of delay and laches in approaching this Court, we are inclined to refer to paragraph 10 of the judgment and order of the learned Single Judge for rejecting the plea of the appellants/writ petitioners on the



ground of delay and laches. Paragraph 10 of the judgment is extracted

below:

“10. The Supreme Court in the judgment cited by the counsel for the respondents, namely *Bichitrananda Behera vs. State of Orissa & Ors.* reported in *2023 SCC OnLine SC 1307*, has dealt with the question of delay and laches, and acquiescence, and has also analyzed and quoted extensively other Supreme Court judgments on this aspect, it has been held in Para -21 as follows.

“21. Profitably, we may reproduce relevant passages from certain decisions of this Court:

(A) *Union of India v Tarsem Singh, (2008) 8 SCC 648*:

“To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.”

(B) *Union of India v N Murugesan, (2022) 2 SCC 25*: “Delay, laches and acquiescence

20. The principles governing delay, laches, and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct elements. One can say



that delay is the genus to which laches and acquiescence species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create non-consideration of condonation in certain circumstances. They are bound to be applied by way of practice requiring prudence of the court than of a strict application of law. The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the court.

Laches

21. The word “laches” is derived from the French language meaning “remissness and slackness”. It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.”

5. As additional increment is not a continuing ground and that the appellants/writ petitioners have slept over the matter for more than eight years, we cannot wake up the sleeping persons from the slumber to grant the relief.

6. Accordingly and in view of the above and that the Professors have acquiesced of their rights, WA No. 18 of 2024 is dismissed.

(W. Diengdoh)
Judge

(S. Vaidyanathan)
Chief Justice

Meghalaya
13.06.2024