BHOOP SINGH

v.

UNION OF INDIA AND ORS.

APRIL 29, 1992

[LALIT MOHAN SHARMA, J.S. VERMA AND A.S. ANAND, JJ.]

Constitution of India, 1950:–

Articles 14 and 311—Police agitation—Services of several police constables terminated—Many constables filed writ petitions and were reinstated—Petitioner one such dismissed constable—Challenged his termination order after 22 years—No explanation offered for delay—Not entitled to relief merely because others have been reinstated—Refusal of relief—Held not discriminatory—Relief of reinstatement—To be granted to one who is diligent.

A large number of police constables participated in a mass agitation on April 14, 1967. The services of the agitating police constables were terminated on that account without specifying that reason for the termination. Apart from termination, many of these police constables were also prosecuted. As a result of the demand by some Members of Parliament, many of the dismissed constables were taken back in service as fresh entrants and the Home Minister also directed withdrawal of the prosecution against them.

Some of these dismissed constables who were not taken back in service even as fresh entrants filed writ petitions in the High Court in 1969 and 1970 which were allowed by the High Court on October 1, 1975, quashing the orders of their termination. Subsequently, some other constables whose services were similarly terminated also filed writ petitions in the High Court in 1978, which too were allowed, rejecting the objection raised on the ground of delay and laches.

Another set of similarly dismissed constables then filed writ petitions in the High Court challenging the termination of their services contending that their claim was identical with that of the petitioners in the writ petitions filed in 1978. These petitions were transferred to the Central Administrative Tribunal which held that they were entitled to the same

A relief as was granted in the writ petitions filed in the High Court in 1978. Appeals to this Court by the Delhi Administration against this decision were dismissed.

Lt. Governor of Delhi and others v. *Dharampal and others,* [1990] 4 SCC 13.

B

The petitioner in the Special Leave Petition claimed to be a similarly dismissed police constable and filed a petition before the Central Administrative Tribunal for re-instatement in service and consequential benefits on the ground that his case and claim was similar
C to that of the police constables who had succeeded in the earlier rounds of litigation.

The Tribunal rejected the application on the ground that it was highly belated and there was no cogent explanation for the inordinate delay of 22 years in filing the application on 13th March, 1989 after termination
D of the service in 1967.

In the appeal to this Court, it was contended that the petitioner was entitled to the relief of reinstatement like the others dismissed with him and then reinstated and the question of delay or laches does not arise, and
E that the Delhi Administration was dutybound to reinstate him along with others and in not doing so, it has discriminated him.

Dismissing the special leave petition, this Court,

HELD : 1. It is expected of a Government servant who has a
F legitimate claim to approach the Court for the relief he seeks within a reasonable period, assuming no fixed period of limitation applies. This is necessary to avoid dislocating the administrative set-up after it has been functioning on a certain basis for years. During the interregnum those who have been working gain more experience and acquire rights which cannot
G be defeated casually by lateral entry of a person at a higher point without the benefit of actual experience during the period of his absence when he chose to remain silent for years before making the claim. Apart from the consequential benefits of reinstatement without actually working, the impact on the administrative set-up and on other employees is a strong reason to decline consideration of a stale claim unless the delay is satis-
H factorily explained and is not attributable to the claimant. This is a

material fact to be given due weight while considering the argument of discrimination for deciding whether the petitioner is in the same class as those who challenged their dismissal several years earlier and were consequently granted the relief of reinstatement. [974 G-975 B] A

In the instant case, the petitioner was appointed in 1964 and his service terminated after about three years in 1967. It is in 1989, after a lapse of about 22 years from the date of termination of his service that the petitioner chose to assail his dismissal, notwithstanding the fact that some of the dismissed constables challenged their dismissal as early as in 1969 and 1970, within a period of two to three years and others too did so after the success of the first batch in getting reinstated. No attempt has been made by the petitioner to explain why he chose to be silent so long if he too was interested in being reinstated and had not abandoned his claim, if any. [974 D, E] B C

2. The lapse of such a long unexplained period of several years in the case of the petitioner is a strong reason to not classify him with the other dismissed constables who approached the Court earlier and got reinstatement. It was clear to the petitioner latest in 1978 when the second batch of petitions were filed that the petitioner also will have to file a petition for getting reinstatement. Even then he chose to wait till 1989, *Dharmpal's* case also being decided in 1987. The argument of discrimination is, therefore, not available to the petitioner. [975 C, D] D E

3. Inordinate and unexplained delay or lapses is by itself a ground to refuse relief to the petitioner irrespective of the merits of his claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the minds of others that he is not interested in claiming that relief. Others are then justified in acting on that belief. It is more so in service matters where vacancies are required to be filled promptly. [975 E] F

4. A person cannot be permitted to challenge the termination of his service after a period of 22 years, without any cogent explanation for the inordinate delay, merely because others similarly dismissed had been reinstated as a result of their earlier petitions being allowed. [975 F] G

5. Article 14 or the principle of non-discrimination is an equitable principle and, therefore, any relief claimed on that basis must itself be H

founded on equity and not be alien to that concept. [975 G]

In the instant case, grant of the relief to the petitioner would be inequitable instead of its refusal being discriminatory as asserted on behalf of the petitioner. [975 H-976 A]

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No. 1485 of 1992.

From the Order and Judgment dated 30.9.1991 of the Central Administrative Tribunal, Delhi in R.A. No. 162 of 1991 in O.A. No. 753 of 1989.

Govind Mukhoty, A.P. Singh and K.N. Rai for the Petitioner.

The Judgement of the Court was delivered by

VERMA, J. The petitioner was appointed a constable in the Delhi Armed Police in 1964. A large number of police constables participated in a mass agitation on April 14, 1967. The services of the agitating police constables were terminated on that account without specifying that reason for the termination. The petitioner claims that his service was similarly terminated on 3.8.1967 due to his participation in the agitation with other police constables. Apart from terminating their services, many of those police constables were also prosecuted. It appears that as a result of the demand by some Members of Parliament, many of the dismissed constables were taken back in service as fresh entrants and the Home Minister also directed withdrawal of prosecution against them. Some of the dismissed constables who were not taken back in service even as fresh entrants filed writ petitions in the Delhi High Court in 1969 and 1970 which were allowed by the High Court on October 1, 1975 quashing the orders of termination of those petitioners. Subsequently, some other constables whose services were similarly terminated also filed writ petitions in the Delhi High Court in 1978 which too were allowed rejecting the objection raised on the ground of delay and laches. Another set of similarly dismissed constables then filed writ petitions in the Delhi High Court challenging the termination of their services contending that their claim was identical with that of the petitioners in the writ petitions filed in 1978. These writ petitions were transferred to the Central Administrative Tribunal which held that the

petitioners therein were entitled to the same relief as was granted to the petitioners in the writ petitions filed in the High Court in 1978. The Delhi Administration preferred appeals in this Court against that decision. Those appeals were dismissed by the judgment in *Lt. Governor of Delhi and others* v. *Dharampal and others*, [1990] 4 SCC 13.

Petitioner, Bhoop Singh, claiming to be a similarly dismissed police constable filed O.A. No. 753 of 1989 in the Central Administrative Tribunal praying for reinstatement in service and all consequential benefits on the ground that his case and claim is similar to that of the police constables who had succeeded in the earlier rounds of litigation. The Tribunal has rejected the petitioner's application on the ground that it is highly belated and there is no cogent explanation for the inordinate delay of twenty-two years in filing the application on 13.3.1989 after termination of the petitioner's service in 1967.

Shri Gobinda Mukhoty, learned counsel for the petitioner strenuously urged that the petitioner is entitled to the relief of reinstatement like the others dismissed with him and then reinstated and the question of delay or laches does not arise. Learned counsel contended that the Delhi Administration was duty bound to reinstate the petitioner also with the others and in not doing so, it has discriminated the petitioner. On this basis, it was urged, the question of laches or delay does not arise. Shri Mukhoty places strong reliance on the decision in *Dharampal* (supra) to support his submission.

The real question is : whether, the mere fact that termination of petitioner's service as a police constable in 1967 is alleged to be similar to that of the other police constables so dismissed in 1967 and then reinstated in the above manner is sufficient to grant him the relief of reinstatement ignoring the fact that he made the claim after the lapse of twenty-two years in 1989? It has, therefore, to be seen whether this fact alone is sufficient to classify the petitioner with the earlier reinstated police constables for granting the relief of reinstatement claimed in 1989 when those reinstated had made their claim several years earlier.

In *Dharampal* (supra) there is no consideration or discussion of this question and in that case this Court had refused to interfere with the relief

granted by the Tribunal. The question here is of interfering with the Tribunal's order since the Tribunal has refused relief on this ground. Unless it can be held that delay of several years in claiming the relief of reinstatement must be ignored simply because some other similarly dismissed had been reinstated as a result of their success in the petitions filed many years earlier, the Tribunal's order cannot be reversed in the present case. *Dharampal* is of no assistance for this purpose. Whether, the delay in making the claim has been explained satisfactorily to negative the objection of laches is a question of fact in each case. In *Dharampal* the Tribunal had apparently been satisfied with the explanation for the delay and this Court declined interference with the Tribunal's view. In the present case, there has been a much longer delay and the Tribunal has stated that the same has not been explained. *Dharampal* does not, therefore, help the petitioner to circumvent this obstacle.

The petitioner was appointed in 1964 and his service terminated after about three years in 1967. It is in 1989 after a lapse of about twenty-two years from the date of termination of his service that the petitioner chose to assail his dismissal, notwithstanding the fact that some of the dismissed constables challenged their dismissal as early as 1969 and 1970, within a period of two to three years, and others too did so soon after the success of the first batch in getting reinstated. No attempt has been made by the petitioner to explain why he chose to be silent for so long, if he too was interested in being reinstated and had not abandoned his claim, if any. If the petitioner's contention is upheld that lapse of any length of time is of no consequence in the present case, it would mean that any such police constable can choose to wait even till he attains the age of superannuation and then assail the termination of his service and claim monetary benefits for the entire period on the same ground. That would be a startling proposition. In our opinion, this cannot be the true import of Article 14 or the requirement of the prinicple of non-discrimination embodied therein, which is the foundation of petitioner's case.

It is expected of a government servant who has a legitimate claim to approach the Court for the relief he seeks within a reasonable period, assuming no fixed period of limitation applies. This is necessary to avoid dislocating the administrative set-up after it has been functioning on a certain basis for years. During the interregnum those who have been

working gain more experience and acquire rights which cannot be defeated casually by lateral entry of a person at a higher point without the benefit of actual experience during the period of his absence when he chose to remain silent for years before making the claim. Apart from the consequential benefits of reinstatement without actually working, the impact on the administrative set-up and on other employees is a strong reason to decline consideration of a stale claim unless the delay is satisfactorily explained and is not attributable to the claimant. This is a material fact to be given due weight while considering the argument of discrimination in the present case for deciding whether the petitioner is in the same class as those who challenged their dismissal several years earlier and were consequently granted the relief of reinstatement. In our opinion, the lapse of a much longer unexplained period of several years in the case of the petitioner is a strong reason to not classify him with the other dismissed constables who approached the Court earlier and got reinstatement. It was clear to the petitioner latest in 1978 when the second batch of petitions were filed that the petitioner also will have to file a petition for getting reinstatement. Even then he chose to wait till 1989, *Dharampal's* case also being decided in 1987. The argument of discrimination is, therefore, not available to the petitioner.

There is another aspect of the matter. Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief. Others are then justified in acting on that belief. This is more so in service matters where vacancies are required to be filled promptly. A person cannot be permitted to challenge the termination of his service after a period of twenty-two years, without any cogent explanation for the inordinate delay, merely because others similarly dismissed had been reinstated as a result of their earlier petitions being allowed. Accepting the petitioner's contention would upset the entire service jurisprudence and we are unable to construe *Dharampal* in the manner suggested by the petitioner. Article 14 or the principle of non-discrimination is an equitable principle and, therefore, any relief claimed on that basis must itself be founded on equity and not be alien to that concept. In our opinion, grant of the relief to the

A petitioner, in the present case, would be inequitable instead of its refusal being discriminatory as asserted by learned counsel for the petitioner. We are further of the view that these circumstances also justify refusal of the relief claimed under Article 136 of the Constitution.

Special Leave Petition is dismissed.

N.V.K. Petition dismissed.