

APHC010864322018



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3333]

THURSDAY, THE THIRTIETH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

WRIT PETITION NO: 41705 of 2018

Between:

1.V.LAKSHMAIAH, S/O VENKATARAMAIAH, AGED 54 YEARS,
WORKED AS BARBER (BADGE NO. 265), KALYANAKATTA,
TIRUMALA,R/O NARSINGAPURAM, CHANDRIGIRI MANDAL,
CHITTOOR DISTRICT STATE OF ANDHRA PRADESH.

...PETITIONER

AND

1.THE EXECUTIVE OFFICER, TIRUMALA TIRUPATI DEVASTHANAM,
TIRUPATI, CHITTOOR DISTRICT, STATE OF ANDHRA PRADESH

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ Order or Direction more particularly one in the nature of Writ of Mandamus declare the impugned Proceedings Roc.No.DA4/28330/97, dated. 15-1-1998, issued by the respondent, by terminating my barber services, without notice, and without conducting any enquiry, and denied to consider my joining reports dated 8-1-1998, 18-6-1999, and 10-2-2013 on return from medical leave, till today, as illegal arbitrary and unjust and set aside the same, consequently direct the respondent to issue posting orders and continue him in Barber service with Badge No.265 with continuity of service, and pass such other orders.

IA NO: 1 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent to allow the petitioner to resume his barber duty by considering the pending representations of the Petitioner dated. 8-1-1998, 18-6-1999, and 10-2-2013, without reference to the impugned Proceedings Roc.No.DA4/28330/97, dated. 15-1-1998 of the respondent, pending disposal of the above writ petition and pass such other orders.

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased May be pleased to allow leave petition in W.P. No. 41705 of 2018 for filing counter affidavit, and pass such other orders.

Counsel for the Petitioner:

1.SARMA C V S S

Counsel for the Respondent:

1.C SRINIVASA BABA

The Court made the following:

THE HONOURABLE SMT JUSTICE V.SUJATHA**WRIT PETITION NO: 41705 of 2018****ORDER:-**

This Writ Petition is filed questioning the impugned proceedings in Roc.No.DA4/28330/97, dated 15.01.1998 issued by the Respondent by terminating the Petitioner from barber services without any notice or without conducting any enquiry as illegal and arbitrary.

2. The case of the Petitioner is that he was joined as barber in Kalyanakatta at Tirumala in the year 1978 with badge No.265. After abolition of MIRASI Baber system in TTD, the Petitioner was continued under consolidated pay scales of Rs. 1,100/- per month along with others. As per agreement of 1975 entered between the Dharmakarthas of Mirasi barbers and the Devasthanam, the barber/ mirasidar has to opt for permanent absorption in TTD. Further, as per Clause-3 of the agreement, the barber is entitled to get consolidated pay for the number of days of work. Therefore the question of abstaining from duties or termination does not arise in case of barbers and he is not entitled to claim any payment during his absence.

3. While so, all of a sudden, the Petitioner fell sick in the year 1996 and that he applied leave from 01.08.1996 and continued on medical leave till 01.03.1997 till he get completely cured. Thereafter, on 09.05.1997 and 08.01.1998 he submitted joining report to the Deputy Executive Officer, TTD along with fitness certificate issued by the Medical Institution of TTD, dated 01.03.1997, but the Respondent did not allow the Petitioner to join duty. The

Petitioner submitted representations dated 18.06.1999 and 10.02.2013 requesting to allow him to join duty, but in vain.

4. The main grievance of the Petitioner in the present case is that without considering the representations dated 18.06.1999 and 10.02.2013, the Respondent Authorities issued impugned proceedings in Roc.No.DA4/28330/97, dated 15.01.1998 by terminating the services of the Petitioner without conducting any enquiry or without issuing any notice. Aggrieved by the same, the present Writ Petition came to be filed.

5. The sole Respondent filed Counter-Affidavit duly admitted the facts stated supra. However, stated that as per Clause (3) of the agreement entered between Dharmakartha and MIRASI of the Devasthanam in the year 1975, each tonsurer who attended not less than 20 days will be permitted 4 days paid leave and those who attend less than 20 days in a month at Rs. 10/- per day and the leaves will be sanctioned with the permission of the Superintendent. The Petitioner has absented to his duties unauthorizedly without prior permission or sanction of leave with effect from 01.08.1996 and exhibited his gross careless and negligence.

6. It is further submitted that as per the report received from the Deputy Executive Officer (KKC), TTD, Tirumala dated 18.06.1997 and 23.07.1997, the Petitioner neither applied for leave nor obtained prior permission from the higher authorities for such continuous absence. The Petitioner was a temporary employee and he absented to duty without applying for leave and

also not taken permission from the higher authority for his absence. Hence the Government Memo C-9101-4/8/FR-1/91, Finance and Planning Department, dated 25.12.1991 is applicable to him irrespective of his payment procedure, whether he claimed the payment during his absence or not. Based on the above circular, action was initiated against him and was terminated with immediate effect since his services are no more required in TTD vide proceedings dated 15.01.1998. The Petitioner has filed the Writ Petition after a lapse of 20 years, as such, the Writ Petition is not maintainable and same is liable to be dismissed.

7. Heard learned counsel for the Petitioner and learned Standing Counsel for the Respondent.

8. On perusal of the record, it is very clear that admittedly the Petitioner was terminated vide proceedings in Roc.No.DA/28380/97, dated 15.01.1998. However, the Writ Petition was filed in the year 2018. To substantiate the said contention, learned counsel for the Petitioner argued that the Petitioner has been making representations to the Respondent/ TTD with a fond hope to getting reinstated at future point of time, hence he did not approached this Court within time.

9. *Per contra*, learned Standing Counsel for the Respondent/ TTD argued that there are laches on the part of the Petitioner in not approaching this Court at the earliest by stating that he went on giving representations to the Respondent, which is unjustifiable and relied on a decision of Hon'ble

Apex Court in ***“Union of India and Others v. C. Girija and Others”***¹, wherein it was held that mere fact that representation was made will not give any fresh cause of action. Thus mere fact that representation was replied by Railways on 27.12.2007, a stale claim shall not become a live claim, which in fact the Petitioner therein made a claim after six and half years. He also relied on a decision of Hon’ble Apex Court in ***State of Jammu and Kashmir v. R.K.Zalpuri and Others (Civil Appeal Nos. 8390-8391 of 2015), dated 08.10.2015***, wherein it was held as follows:-

26. In the case at hand, the employee was dismissed from service in the year 1999, but he chose not to avail any departmental remedy. He woke up from his slumber to knock at the doors of the High Court after lapse of five years. The staleness of the claim remained stale and it could not have been allowed to rise like a phoenix by the writ court.

27. The grievance agitated by the respondent did not deserve to be addressed on merits, for doctrine of delay and laches and already visited his claim like the chill of death which does not spare anyone even the one who fosters the idea and nurtures the attitude that he can sleep to avoid death and eventually proclaim “Deo gratias” – ‘thanks to God’.

28. Another aspect needs to be stated. A writ court while deciding a writ petition is required to remain alive to the nature of the claim and the unexplained delay on the part of the writ petition. Stale claims are not to be adjudicated unless non-interference would cause grave injustice. The present case, need less to emphasise, did not justify adjudication. It deserved to be thrown overboard at the very threshold, for the writ petition had accepted the order of dismissal for half a decade and cultivated the feeling that he could freeze time and forever remain in the realm of constant present.”

10. Admittedly, in the present case, the services of the Petitioner were terminated in the year 1998 and he approached this Court only in the year

¹ (2019) 15 SCC 633

2018 i.e after lapse of 20 years and no clear reasons are assigned by the Petitioner for the lapses, except stating that he has been making representations to the Respondent/ TTD, which admittedly cannot give rise to any cause of action as rightly contended by learned Standing Counsel for the Respondent. Therefore, the Writ Petition is liable to be dismissed as not maintainable on the ground of laches.

11. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE V.SUJATHA

Date: 30.04.2026

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