

ORDER SHEET  
**HIGH COURT OF SINDH CIRCUIT COURT,  
HYDERABAD**

**C.P. Nos.D-690, 1594 and 3663 of 2022**

*Before:-*

**Justice Mrs. Kausar Sultana Hussain**  
**Mr. Justice Khadim Hussain Soomro**

**Date of hearing & Order:**

**23.01.2024**

M/s Karamullah Memon, Mashooque Ali Mahar, and  
Ms Saiqa Ansari advocate for the petitioners.

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**ORDER**

**Justice Khadim Hussain Soomro, J:-** The captioned petitions involve a common question with regard to the applicability of laches since the cause of action to these petitioners accrued in the year 2013 when the recruitment was denied to them. We intend to dispose of the above petitions through a single order.

2. Brief facts of these petitions are that the petitioners, being eligible aspirant candidates, applied for the posts of Junior School Teacher (**JST**) and Primary School Teacher (**PST**) and received admit cards in the year 2013 after the scrutiny of their documents. Subsequently, they appeared in the written test conducted by the National Testing Services (**NTS**) and secured passing marks. Following the announcement of the NTS results, the petitioners were instructed to deposit Challan for the verification of their documents, to which they complied. Thereafter, despite repeated personal visits to the District Recruitment Committee (**DRC**) and higher authorities, the petitioners encountered a lack of response. Despite successfully passing candidate of the NTS test, the respondents failed to issue appointment orders. Moreover, they have not provided any information regarding the non-issuance of the letters. The petitioners contend that by favouring specific individuals through corrupt practices, the respondents unjustly deprived them of the opportunity despite their successful NTS test results.

3. We have heard the learned counsels and perused the material available on the record. In the present petitions, the petitioners request appointments to positions that were filled in 2013. This request is made after a delay of approximately 09 years on a specific query to the point of laches. The counsels for the petitioners referred to orders passed C.P. No.D-290 of 2022 and C.P. No.D-1416 of 2020, and they also sought the disposal of the instant petitions in a similar way to that of those petitions. The reliance on the order dated 16.02.2022

is deemed inappropriate, as the matter of laches was not definitively settled therein. In relation to the legal question currently under consideration, the referenced orders can not be considered to have a binding effect, as none of the Benches whose orders have been cited has expressly addressed the point of laches. Consequently, we are of the opinion that, in the absence of a conclusive determination on the matter of laches in the cited orders, this Bench is not bound to adhere to a similar perspective regarding the issue under consideration. Furthermore, it is essential to note that the orders referred are disposed of with specific directions, not constituting a self-standing judgment to be followed. The learned counsels for the petitioners submit that the petitioner has the outstanding credentials or purported success of the petitioners in written examinations with exceptional scores; such achievements, in isolation, do not obviate the issue of laches central to these petitions.

4. The assertion raised by counsel for the petitioners that the petitioners engaged in correspondence with various government officials in pursuit of their claims does not absolve the petitioners from the repercussions of the doctrine of laches, which postulates that a party may possess an otherwise enforceable right but forfeits its entitlement to enforcement when affected by laches. Similarly, if the constitutional petition remedy is not invoked within a reasonable timeframe, interference may be declined on the grounds of laches. It is inherent in the doctrine that procrastination undermines equity, a principle that favours those who are vigilant and not indolent. Laches, in its elementary sense, signifies a failure to undertake actions that ought to have been performed within a reasonable temporal framework. The assessment of laches in a constitutional petition is invariably contingent upon the conduct exhibited by the individual seeking constitutional recourse, but in the instant case, the petitioners could not justify the delay in filing the petitions. The reliance can be placed on the cases of PLD 2013 SC 268 (Umar Baz Khan v. Syed Jehanzeb and others), 2004 SCMR 400 (Farzand Raza Naqvi and others v. Muhammad Din through Legal Heirs and others), 2012 SCMR 280, 2012 PLC (C.S.) 218 (State Bank of Pakistan v. Imtiaz Ali Khan and others) and 2014 PLC (C.S.) 1292 (Asghar Khan and others v. Province of Sindh and others).

5. The constitution petitions are filed to seek remedies from a court, together with constitutional remedies; the Court may still consider the element of delay in certain situations. If a petitioner delays unreasonably in approaching the Court with their writ petition, and if the delay results in prejudice to the opposing party or undermines the principles of equity and justice, the Court may apply the principle of laches or staleness. In such cases, the Court might exercise its discretion to refuse relief based on the delayed filing of the constitutional petition. It's important to note that the application of this principle depends on each case's

specific circumstances and the Court's discretion, which is missing in the present case, and the petitioners could not make out the case to grant the discretionary relief in their favour.

6. The legal principle conveys that a court operating in equity, concerned with fairness and justice, will decline to provide assistance or remedy to legal claims that have become stale or inactive over time. If a petitioner has not promptly asserted their legal rights and acquiesced or remained passive for a significant duration, the Court may deem the claim "stale." In such cases, the Court may refuse to intervene or grant relief due to the petitioner's prolonged inaction and lack of timely asserting their rights. This principle highlights the importance of diligence and prompt legal action to seek equitable remedies. Reliance can be placed on Chapters 641–642, specifically Monographs 1181–82 of Halsbury's Laws of England, Third Edition, Volume 14, which deal with laches and read as under:-

"A Court of Equity refuses its aid to stale demands, where the plaintiff has slept upon his right and acquiesced for a great length of time."

7. The concept of laches is not an abstract or technical rule. It applies when it would be unfair to grant a remedy because one party's actions could be seen as a waiver of that remedy or because one party's actions and indifference put the other party in an unreasonable position to assert that remedy later on. Two crucial factors in these cases are the duration of the delay and the nature of the acts done during that time, which can impact both parties and create a balance of justice or injustice regarding the remedy. The reliance can be placed on *Lindsay Petroleum Company v. Hurd* ((1874) L.R. 5 PC 221), which was observed on pages 239 & 240:

"The doctrine of laches in Courts of Equity is not an arbitrary or technical doctrine where it would be practically unjust to give a remedy either because the party has, by his conduct done that which fairly be regarded as equivalent to the waiver of it or where by his conduct and neglect he had, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, Two circumstances, always important in such cases are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course of the other, so far as relates to the remedy."

8. The writ will generally be refused where the petitioner does not demonstrate that he has proceeded expeditiously after discovering that it was necessary to resort to it. In all such cases, the petitioner must act speedily, and any unreasonable delay will warrant refusal. Such instances call for an extra dose of

rigour while enforcing the rule of laches. Thus, laches denied the entitlement to the writ in the case where the petitioner waited more than three years. It is admitted facts that the petitioners have filed the instant petitions in the wake of 9 years. The Law of Extraordinary Legal Remedies by Ferris 1926 Edition, monograph 176 at page 202, which for the relevant purpose reads as under:

"The writ will generally be refused in all cases where petitioner fails to show that he has proceeded expeditiously after discovering that it was necessary to resort to it, and especially its use. In all such cases of public detriment or inconvenience petitioner must act speedily, and any unreasonable delay will warrant refusal. In such cases the rule of laches is applied and enforced with particular strictness. So where petitioner delayed over ten months after his discharge, and nine months after notification thereof, the right to the writ was barred by laches."

9. In light of the above discussion and case law, we are of the view that the petitioners have now approached this Court after nearly a decade, seeking remedies without providing any explanation for the substantial delay of nine years. The petitions seriously suffer from laches, and the petitioners have slept over their rights. Therefore, the petitions are dismissed being hit by laches.

JUDGE

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