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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3227/2006

% **26.09.2013**

PARMANAND LAL Petitioner

Through: Petitioner in person

versus

UOI, THROUGH SECRETARY, DEPARTMENT
OF TELECOMMUNICATIONS Respondent

Through: Mr. R.V. Sinha, Mr. A.S. Singh,
Advocates

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition, petitioner seeks relief of grant of Rs.50 lakhs as damages as also another amount of Rs.10 lakhs as exemplary damages.

The prayer clause of the writ petition reads as under :

“A gracious writ of mandamus may kindly be issued to the respondents to pay the petitioner damages of a sum of Rs. 50 lakhs (Rupees fifty lakhs only) towards mental agony, loss of earning capacity of petitioner's dependents and expenditure incurred even after final judgment and the loss in value of the amount due to delay with 12 percent interest from the date of filing this petition,
OR, may pass any other order in the interest of equity and justice.”

2. An entitlement to relief is when necessary ingredients of a cause of action as required under law are pleaded and established. I have made my best endeavour to understand what the writ petition is all about but I must concede that I have failed to understand much. Only thing which I seem to understand is that petitioner has a grievance against the Union of India/Ex-employer on account of certain past litigations of promotion, and also that orders of the Supreme Court in favour of the petitioner were not complied with. Petitioner claims violation of his Fundamental Rights including violation of Article 21 of the Constitution of India. It is alleged that petitioner was very badly harassed by the Government and, therefore, damages, as prayed for, should be awarded. I have failed to make any legal sense of rest of the averments in the writ petition.

3. To understand the averments of the petition, it would be necessary to refer to the response of the respondent in his counter-affidavit. A reading of the counter-affidavit shows that petitioner was granted promotion but that order was withdrawn, however, ultimately Supreme Court granted relief to the petitioner. The Union of India thereafter restored the position of the petitioner and granted the necessary monetary arrears. In

fact, interest was also granted though Supreme Court did not direct payment of interest. Petitioner had applied by means of filing of applications in the Supreme Court for higher interest on arrears but the Supreme Court dismissed the applications I.A. Nos. 15/2001 and 12/1999 in case No. 4339/1995 vide order dated 20.8.2001.

4. The counter-affidavit also shows that various litigations have been initiated by the petitioner, not only in this Court, but also before the Supreme Court as also before the Central Administrative Tribunal(CAT) and all of which were dismissed. These factual details are given in para 12 of the counter-affidavit and they read as under:

“12. (i) The petitioner herein though mentioned 15 to 20 years old instances, but has not brought so called grievances till the year 2000. He filed petition No. 15259/2000 before the Hon’ble Supreme Court regarding damage as stated by him in the petition under reply. The Hon’ble Supreme Court vide order dated 23.4.2001, while dismissing the said petition, has ordered that if the petitioner herein is aggrieved by the impugned decision of any authority, a fresh cause of action arises for which may move the appropriate forum.

(ii) The petitioner herein did not file any case for 2 ½ years in any forum after the above orders of the Hon’ble Supreme Court.

(iii) After 2 ½ years, he filed MA No. 98/2004 in OA No. 2646/1993 in November, 2003 before this Hon’ble Court but the same was only for promotion and payment of interest and not related to any damage as he stated in his present OA. Since

it was a fresh cause and said MA was dismissed on 1.3.2004 with a direction to file a fresh OA in accordance with law.

(iv) The petitioner herein did not file a fresh case before any Court of competent jurisdiction claiming damages, rather he sent a representation dated 30.8.2004 to Secretary, Department of Telecommunication regarding same issue which was disposed off on 16.11.2004.

(v) The petitioner filed the OA 761/2005 against the above order of DOT and the same was dismissed on 5.10.2005.

(vi) The petitioner had also filed CP 177-178/2003 in CA No. 6485/98 but the same was dismissed on 17.10.2003. Hence, the claim of the petitioner for damage on the basis of order dated 26.4.2000 carry no weightage and as such his representation has been disposed off.

(vii) It is further submitted that the petitioner filed WP 7373/2006 before Hon'ble High Court of Delhi for regular appointment of the petitioner's son and daughter. The same petition was dismissed on 8.5.2006 by Hon'ble High Court of Delhi.

He further filed LPA against the said order which was also dismissed by Division Bench of this Hon'ble Court on 30.5.2006.

(viii) Further the petitioner filed WP (C) 19244-45/2006 before Hon'ble High Court of Delhi making his son as petitioner No. 1 for compassionate appointment. The same petitioner also dismissed on 18.1.2007.

(ix) From the above, it is evident that the petitioner herein is in habit of bringing new facts by attempting to mislead this Hon'ble Court. It is further submitted that the petitioner is habitual of raising such points on one pretext or the other in various Courts. The petition, thus, is misuse of process of law,

based on misconceived and misleading facts.”

5. Therefore, this writ petition is barred on various grounds. First is the ground of *res judicata* as whatever was to be granted in a litigation pertaining to promotion could only have been granted before the Supreme Court, and best because of delay in payment relief of a higher rate of interest could be prayed and which relief is already declined to the petitioner by the Supreme Court. Various reliefs claimed by the petitioner towards appointment of his children on compassionate appointment have also been dismissed by this Court. Petitioner had claimed damages by means of filing OA before the CAT and that OA was also dismissed. Also, damages cannot be claimed, that too of a huge amount of ₹ 60 lakhs, in a writ petition under Article 226 of the Constitution of India inasmuch as court fees should ordinarily be paid for a money decree. Petition does not lie because how the petitioner is caused a loss of Rs.60 lakhs can only be established during trial in a civil court.

6. Petitioner appears in person argues that the Union of India subjected to him in 41 litigations and, therefore, he should be compensated. I have failed to understand his argument because entitlement to compensation is only as per existence of a legal right, that right has to be established and

damages have to be calculated by showing how the loss is caused. None of these factors exist in the present case and, therefore, this writ petition has no merits.

7. The present writ petition is, therefore, dismissed with costs of Rs. 25,000/-. However, this costs of Rs. 25,000/- will not be payable today but will be paid as a condition precedent for filing of any future litigation which the petitioner may file with respect to any of the issues which has already been decided whether by this Court or by the Supreme Court or by the CAT or by today's judgment.

VALMIKI J. MEHTA, J

SEPTEMBER 26, 2013
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