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

\+ **W.P.(C) No. 4080/2007**

% **16th April, 2015**

SHRI OM PRAKASH SHARMA ..... Petitioner
Through: Ms. Shiparna Chatterjee, Advocate.

Versus

BANK OF INDIA AND ANR. ..... Respondents
Through: Mr. B.K. Misra, Advocate.

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 filed under Article 226 of the Constitution of India, petitioner impugns the order of the respondents/Bank dated 14.6.1984 whereby petitioner was removed from service. Petitioner was charge-sheeted for the facts that with respect to accounts of over a dozen of customers he received amounts in cash but he did not deposit the amounts of the cash in the Bank. Disciplinary proceedings commenced against the petitioner vide the charge-sheet dated 1.6.1983 and culminated in the order

of the Disciplinary Authority dated 4.5.1984 and which is sought to be impugned in the present petition.

2. The present petition has been filed on 18.5.2007 i.e after around 23 years of the impugned order having been passed on 14.6.1984 and therefore the petition is clearly barred by the doctrine of delay and *laches* and the principle of limitation and which aspects have been explained by the Supreme Court recently in its judgment in the case of ***State of Orissa and Anr. Vs. Mamata Mohanty (2011) 3 SCC 436*** and the relevant paras in this regard read as under:-

> "52. In the very first appeal, the respondent filed Writ Petition on 11-11-2005 claiming relief under the Notification dated 6-10-1989 w.e.f. 1-1-1986 without furnishing any explanation for such inordinate delay and on laches on her part. Section 3 of the Limitation Act, 1963, makes it obligatory on the part of the court to dismiss the Suit or appeal if made after the prescribed period even though the limitation is not set up as a defence and there is no plea to raise the issue of limitation even at appellate stage because in some of the cases it may go to the root of the matter. (See *Lachhmi Sewak Sahu v. Ram Rup Sahu: AIR 1994 PC 24* and *Kamlesh Babu v. Lajpat Rai Sharma: (2008) 12 SCC 577.*)
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> 53. Needless to say that Limitation Act, 1963 does not apply in writ jurisdiction. However, the doctrine of limitation being based on public policy, the principles enshrined therein are applicable and writ petitions are dismissed at initial stage on the ground of delay and laches. In a case like at hand, getting a particular pay scale may give rise to a recurring cause of action. In such an eventuality, the petition may be dismissed on the ground of delay and laches and the court may refuse to grant relief for the initial period in case of an

unexplained and inordinate delay. In the instant case, the Respondent claimed the relief from 1-1-1986 by filing a petition on 11-11-2005 but the High Court for some unexplained reason granted the relief w.e.f. 1-6-1984, though even the Notification dated 6-10-1989 makes it applicable w.e.f. 1-1-1986.

54. This Court has consistently rejected the contention that a petition should be considered ignoring the delay and laches in case the petitioner approaches the Court after coming to know of the relief granted by the Court in a similar case as the same cannot furnish a proper explanation for delay and laches. A litigant cannot wake up from deep slumber and claim impetus from the judgment in cases where some diligent person had approached the Court within a reasonable time. (See *Rup Diamonds v. Union of India: (1989) 2 SCC 356, State of Karnataka v. S.M. Kotrayya: (1996) 6 SCC 267* and *Jagdish Lal v. State of Haryana: (1997) 6 SCC 538.*)"

(underlining added)

3. No doubt, against the petitioner the criminal cases were dismissed but, the same was basically because of lack of evidence in one case or that there was no entitlement to prosecute the petitioner as a public servant in another case, however, law is well settled that departmental proceedings and criminal case proceedings operate parallely and simultaneously and that even exoneration of a charge-sheeted official in the criminal case will not lead to exoneration in the departmental proceedings. Therefore, petitioner had necessarily to challenge the dismissal order of the Bank dated 14.6.1984 within the period of limitation, and which has not been done, and since the delay and *laches* in this case is of as many as 23 years the writ petition is not maintainable.

4. In view of the above, I have no option but to dismiss the petition on the ground of delay and *laches.* No costs.

APRIL 16, 2015/Ne **VALMIKI J. MEHTA, J**