

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

+ **W.P.(C) No. 4107/2013**

% **16th April, 2015**

DR. AVTAR SINGH Petitioner
Through: Mr. M.S. Butalia, Advocate.

Versus

GURU NANAK PUBLIC SCHOOL & ORS. Respondents
Through: Mr. Pramod Kumar Sharma,
Advocate for respondent Nos.1 and 2.
Ms. Bandana Shukla, Advocate for
respondent No.3.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. Petitioner, who was the Principal of the respondent no.1/School and who left the services of the School on 15.4.2009, claims that he should be paid the benefits payable to employees of the School in terms of 6th Central Pay Commission Report as adopted by the schools by the circular of the Director of Education dated 11.2.2009.

2. Learned counsel for the respondents argues that the petitioner left the school on 15.4.2009 and this writ petition is filed on 29.6.2013 i.e well beyond the period of limitation of three years and therefore monetary reliefs beyond the period of three years cannot be granted as they become time barred.

3. The Supreme Court in its recent judgment in the case of *State of Orissa and Anr. Vs. Mamata Mohanty (2011) 3 SCC 436* has held 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.*)

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)

4. The aforesaid paragraphs make it clear that though strictly the Limitation Act, 1963 does not apply to writ petitions but the principle of limitation will definitely apply, and on applying the principle of limitation i.e a period of three years in this case, the writ petition would be barred by the doctrine of delay and *laches* inasmuch as the cause of action in this case accrued on 15.4.2009 when the petitioner left the services of the School and he was not paid the benefits payable and which were to be claimed by the petitioner in terms of the report of the 6th Central Pay Commission and the circular of the Director of Education dated 11.2.2009.

5. In view of the above, I have no option but to dismiss the petition on account of the petition being barred by delay and *laches*. No costs.

APRIL 16, 2015

Ne

WP(C)4107/2013

VALMIKI J. MEHTA, J

Page 3 of 3