

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

+ **W.P.(C) No.5697/2007**

% **16th April, 2015**

MANOHAR SINGH Petitioner

Through: None.

Versus

NTPC LIMITED Respondent

Through: Mr. S.K. Taneja, Senior Advocate
with Mr. Rajesh Gupta, Advocate and
Ms. Divyangana Singh, Advocate.

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

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This case is on the Regular Board of this Court since 15.1.2015.

No one appears for the petitioner on two calls. One call was made in the pre-lunch session and another call was made post lunch. It is 2.45 P.M.

2. By this writ petition filed on 30.7.2007, petitioner claims a particular pay scale for the period from 28.1.1982 to 31.3.1984 i.e of a period of around 23 years prior to filing of the writ petition.

3. No doubt, petitioner has been making repeated representations but repeated representations do not extend the period of limitation. In fact,

even the first representation was made by the petitioner in the year 1988 i.e after the period of limitation and the second representation was made much later thereafter on 6.2.1996. Petitioner in para 12 of the writ petition himself states that respondent wrongly rejected the representation vide its order dated 1.3.1996. Therefore, as on 1.3.1996 the cause of action had accrued in favour of the petitioner and repeated representations thereafter do not help the petitioner in approaching the court with delay. The Supreme Court recently in the case of *State of Orissa and Anr. Vs. Mamata Mohanty (2011) 3 SCC 436* has held that though the Limitation Act, 1963 does not apply to writ petitions, but, the principle of limitation squarely applies and consequently a case filed beyond the period of limitation has to be dismissed by applying the doctrine of delay and *laches*. Relevant paras of the judgment of the Supreme Court in the case of *Mamata Mohanty (supra)* 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.*)

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. In fact, it is noted that besides the request of the petitioner having been rejected way back on 1.3.1996, petitioner himself retired in the year 2003 and he did not even file the case within the limitation period from the date of his retirement.

5. In view of the above, the writ petition is clearly barred by the doctrine of delay and *laches*, and is accordingly dismissed. No costs.

APRIL 16, 2015
Ne

VALMIKI J. MEHTA, J