

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

+ **W.P.(C) No.2149/2015**

% **4th March, 2015**

CHANDER PAL

..... Petitioner

Through: Mr. Sujeet Kumar Mishra, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Digvijay Rai, Advocate for
respondent Nos.2 and 3.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

C.M. No.3861/2015 (exemption)

1. Exemption allowed subject to just exceptions.

C.M. stands disposed of.

+ W.P.(C) No.2149/2015 and C.M. No.3860/2015 (directions)

2. By this writ petition filed under Articles 226 and 227 of the Constitution of India, petitioner seeks quashing of the order passed by the employer/respondent nos.2 & 3/Airport Authority of India retiring the petitioner on his achieving the age of 60 years on 30.6.2010. This writ

petition is wholly misconceived and not maintainable for various reasons as detailed below.

3. Firstly, the writ petition cannot be filed in the year 2015 for questioning an order of retirement passed on 29.6.2010. No doubt, the Limitation Act, 1963 does not apply to writ petitions, however, if the petitioner could not have filed a suit in the year 2015 to challenge the impugned order dated 29.6.2010, there is no reason why the limitation period should be overlooked for filing of writ petition because otherwise it would mean that where suits are time barred and where the respondents are State, instead of a suit, a writ petition will be filed. This is impermissible in law. The only way in which limitation is overlooked is when the petitioner files a representation which is said to be pending for consideration and therefore the petitioner does not come to the Court on account of the pendency of his representation, of course depending upon facts of each case and therefore in such cases the doctrine of delay and *laches* is not applied. In the present case, cause of action accrued to the petitioner on 29.6.2010 when as per the petitioner he was illegally retired as his age was taken as 60 years as on 30.6.2010, and therefore, for a cause of action of June, 2010, a writ petition cannot be filed in the year 2015. The writ petition is hence liable to be dismissed by applying the doctrine of delay and *laches*.

4. Another reason for dismissing of the writ petition is that the petitioner claims that the new date of birth fixed by the employer is different than the date of birth as given in his affidavit, however, in this regard petitioner admits that a medical board was constituted by the employer way back in the year 2000 which has fixed the date of birth of the petitioner. The petitioner however claims that this new date of birth was never informed to him. On a query to the counsel for the petitioner, it is conceded that nowhere in the writ petition an averment is made that the employer never issued any document to the petitioner pertaining to his service record including identity card etc after 2000 and which did not show the new date of birth taken of the petitioner in 2000. Obviously, this averment is not made because in the complete service record of the petitioner after the year 2000, and which must be to the knowledge of the petitioner, petitioner's date of birth would have been shown in such a manner that he reaches 60 years as on 30.6.2010. Petitioner therefore has no case, much less at this stage in 2015, to challenge the date of birth as per which he has been superannuated on 30.6.2010.

5. Dismissed.

MARCH 04, 2015
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VALMIKI J. MEHTA, J