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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) No. 5388/2015

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27th May, 2015

ASHWANI KUMAR DUA

..... Petitioner

Through: Mr. Hem C. Vashist and Mohd. Sajid,
Adv.

versus

**DELHI STATE CIVIL SUPPLIES CORPORATION
LTD. (DSCSC)**

..... Respondent

Through: Ms. Sakshi Popli, Adv.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. The petitioner by means of this writ petition filed under Article 226 of the Constitution of India seeks the following reliefs:-

“ PRAYER:

i) A writ of Certiorari or any other appropriate writ, order or direction, directing the respondent to declare the entire selection procedure for Seniority list to be null and void as ab-initio and to re-consider the entire process to set aside and quash the seniority list dated 31-07-2014 and pass an order or direction to the respondent, to provide correct determination of seniority and promotion to the petitioner, including all consequential benefits, arrears of pay and allowances, seniority etc., from the date they became applicable i.e. w.e.f 12-01-1995

the date when the petitioner first got promotion to the post of AG-II, in the interest of justice.

ii) A writ of Mandamus or any other appropriate writ, order or direction, directing the respondent to take appropriate action by reviewing the declared Seniority list (Annexure P-1), by putting the name of petitioner at appropriate place as per his seniority immediately within two weeks.

iii) A writ of Certiorari or any other appropriate writ, order or direction, directing the respondent to declare the order orders of reversion dated 27-06-1995(Annexure P-2), orders of reversion dated 27-06-1995 (Annexure P-2), as null and void, wrong, illegal, unjustifiably and have been passed without affording opportunity to the petitioner, in the interest of justice.

iv) A writ order or direction directing the respondent to pay a sum of Rs.5,00,000/- towards the damages to petitioners.

v) Cost of the petition is also awarded.”

2. Whatever be the language of the prayer clauses, the fact of the matter is that the petitioner challenges the orders of the employer dated 27.6.1995 (Para 8 of the writ petition) and 23.12.1997 (Para 10 of the writ petition). The grievance of the petitioner is that pursuant to these orders passed about 17-20 years back, petitioner was denied promotion and denied appropriate seniority from the year 1995.

3. No doubt, petitioner questions a seniority list recently issued on 31.7.2014, but, it is obvious that this seniority list is challenged by first seeking to set aside the orders dated 27.6.1995 and 23.12.1997.

4. The Supreme court recently in the judgment in the case of *State of Orissa and Another Vs. Mamata Mohanty (2011) 3 SCC 436* has held that though the Limitation Act, 1963 does not apply to writ petitions, the principle of limitation will apply to a writ petition. The relevant paras of this judgment are paras 52 to 54 and which read as under:-

“Delay/Laches

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 *Lachmi 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)

5. It is therefore clear that the writ petition is clearly barred by the principle of limitation and is hence barred by the doctrine of delay and *laches* as petitioner in the year 2015 cannot challenge orders of the years 1995 and 1997.

6. Dismissed.

MAY 27, 2015
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VALMIKI J. MEHTA, J.