

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

+ W.P.(C) No. 8037/2014

% **30th January, 2015**

SH. RAMESH KUMAR Petitioner
Through: Mr.Siddhant Asthana, Advocate.

Versus

BANK OF INDIA Respondent
Through: Mr. Rajesh Kumar with Mr. Gaurav
Kumar Singh, Advocates.

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

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This writ petition under Article 226 of the Constitution of India is filed by the petitioner impugning the orders of the departmental authorities dated 20.12.2001 and 27.2.2002 whereby the services of the petitioner were terminated.

2. This writ petition challenging the orders of termination dated 20.12.2001 and 27.2.2002, has been filed after about 12/13 years in November, 2014. No doubt the principles of limitation do not apply to a

writ petition, however, what cannot be done directly cannot be done indirectly. If the petitioner, by virtue of the law of limitation is prevented from filing a suit challenging the orders of termination dated 20.12.2001 and 27.2.2002, this Court cannot allow a writ petition to be filed for the same relief, because, that would amount to circumventing the law of limitation. No doubt the law of limitation does not strictly apply to writ petitions under Article 226 of the Constitution of India, but it is for this reason courts have applied the doctrine of delay and *laches* to examine the issues which are raised in a writ petition many many years after arising of the cause of action.

3. The only ground urged by the petitioner by filing an additional affidavit for delay in filing the petition is that there were simultaneously criminal proceedings going on against the petitioner, and in which criminal proceedings the petitioner was exonerated, and the earlier advocate had given the legal advice that the petitioner has to wait the outcome of pending criminal proceedings. Interestingly, however it is to be noted that in the additional affidavit no name of any advocate has been given who is said to have given advice to the petitioner, and even if in my opinion the said advice had been given, I do not think that giving of wrong advice by lawyers should be taken as a ground, more particularly in the facts of such a case, to

override the doctrine of delay and *laches* because if that is allowed to be done, a petitioner simply by taking the plea of wrong legal advice can seek to come to the court many many years after arising of the cause of action and claim adjudication of his case on merits. That is, however, not the law and, therefore, I hold that delay and *laches* in filing a petition in November, 2014 cannot be overlooked for challenging the orders dated 20.12.2001 and 27.2.2002.

4. The writ petition is dismissed.

JANUARY 30, 2015
srb

VALMIKI J. MEHTA, J.