

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

+ **W.P.(C) No. 5580/2015**

% **27th May, 2015**

SHRI ROHIT SEHGAL Petitioner

Through: Mr. Nittin Mittal, Adv.

versus

AIR INDIA LIMITED Respondent

Through: Mr. Lalit Bhasin, Ms. Ratna
B.Dhingra and Ms. Bhawna Dhami,
Advs.

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

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. Petitioner by this writ petition filed under Article 226 of the Constitution of India, effectively challenges the letter of termination of employment dated 26.2.2004 ie passed about 11 years back.

2. A similar and subsequent letter dated 20.4.2015 no doubt has been issued by the respondent, but, that will not mean that a fresh cause of action will arise, because, termination order will still remain of the year 2004.

3. The Supreme Court recently in the judgment in the case *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, however the principle of limitation does apply to writ petitions, and, writ petitions which are filed beyond the period of limitation cannot be entertained. 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 *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 view of the above, this writ petition is clearly barred by the principle of limitation and the application of the doctrine of delay and *laches*.

5. Dismissed.

MAY 27, 2015
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VALMIKI J. MEHTA, J.