

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

+ **W.P.(C) No. 9076/2014**

% **27th May, 2015**

SMT. DILPREET BADWAL & ANR. Petitioners

Through: Mr. Rakesh Tiku, Sr. Adv. with Mr.
R.K.Saini, Adv. with Ms. Aartha
Chopra and Mr. Ayush Arora, Advs.

versus

GURU TEGH BAHADUR INSTITUTE OF
TECHNOLOGY & ANR. Respondents

Through: Mr. Srivats Kaushal, Advocate.

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

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

CM No. 10073/2015 (for delay)

1. This is an application for condonation of delay of 39 days in filing the application.
2. There is no objection and the application is allowed. Delay in filing the application is condoned.

3. The application stands disposed of accordingly.

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4. By this application it is prayed that the order dated 09.03.2015 passed by this Court be corrected to the extent of petitioner no. 1 by removing the word “consent” which had the effect that the writ petition was not pressed so far as petitioner no. 1 is concerned. It is stated that the junior counsel who appeared for the petitioner made a mistake in getting the consent recorded.

5. In view of the averments made in the application, the application is allowed and consequentially the order dated 09.03.2015 will not be a consent order of withdrawal of the writ petition so far as the petitioner no. 1 is concerned.

6. Since the writ petition will not be taken as withdrawn qua petitioner no.1, I will now have to pass a judgment and a consequential order, following judgment is passed so far as petitioner no. 1 is concerned.

7. The writ petition so far as petitioner no. 1 is concerned is filed in December, 2014 whereas petitioner no. 1’s services with the respondent no. 1 came to an end on 30.08.2011. The claim of the petitioner no. 1 is for

monetary benefits of a period prior to 30.08.2011 and there is no continuous cause of action or cause of action to arise every month in future for many years ie payments to be made to the petitioner no. 1 every month in future.

8. Since the writ petition is filed on behalf of the petitioner no. 1 after the period of three years of limitation, writ petition has to be dismissed on the principle of limitation and the doctrine of delay and *laches* in terms of the ratio contained in paragraphs 52 to 54 of the judgment of the Supreme Court in the case of *State of Orissa and Another Vs. Mamata Mohanty (2011) 3 SCC 436*, and which para nos. 52 to 54 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)

9. I may also note that giving of representation(s) does not change the period of limitation and limitation is changed only if there is acknowledgment in law by which limitation can be extended on the principles of Sections 18 and 19 of the Limitation Act, 1963. Also as stated above, there is no continuous cause of action in this case and the petitioner no. 1 only seeks payment in respect of fixed amount due for services rendered prior to and till 30.08.2011.

10. The writ petition is accordingly dismissed, so far as petitioner no. 1 is concerned by applying the principle of limitation and the doctrine of delay and *laches*.

11. The application and the writ petition stand accordingly disposed of.

MAY 27, 2015
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VALMIKI J. MEHTA, J.