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

+ **W.P.(C) 1716/2016**

NEETU TULI

..... Petitioner

Through **Mr.M.K.Dhingra, Advocate.**

versus

DELHI DEVELOPMENT AUTHORITY & ORS. Respondents

Through **Mr.Nikhil Goel with Mr.Ashutosh
Ghade, Advocates for R-1.**

Mr.C.M.Goyal, Advocate for R-2.

Date of Decision 1st September, 2016

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CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present writ petition has been filed seeking a direction to respondents No.1 and 2 to hand over possession of land comprising Khasra No.839 to 849 in village Kilokri (Taimur Nagar), New Delhi admeasuring 28 bighas, 1 biswa to respondent No.3/Cooperative Society. Petitioner also prays for a direction to respondent No.3/ Cooperative Society to allot a plot from the said land to the petitioner.

2. It is alleged that the petitioner's husband had become a member of the respondent No.3/Cooperative Society in the year 1974 for allotment of a plot admeasuring 300 sq. yds. It has been averred that

DDA allotted the aforesaid parcel of land to respondent No.3/ Cooperative Society after payment of demand raised by DDA. However, it is alleged that the DDA has not yet handed over the possession of the said plot to respondent No.3/ Cooperative Society.

3. This Court is of the opinion that the petitioner has no *locus standi* to maintain the present writ petition as only the Cooperative Society can seek land from DDA and the petitioner has a remedy only against the Cooperative Society.

4. Moreover, in the present case the petitioner's cause of action, if any, for allotment of land arose in the year 1974 when petitioner became a member or in 1976 when a retired Judge of the Supreme Court gave a report with regard to the irregularities committed in the matters of membership, arrears, allotment and wait-list members etc. Consequently, the present writ petition is also barred by laches.

5. At this stage, learned counsel for the petitioner states that since the petitioner was making continuous representations, the present petition is maintainable.

6. He relies upon the judgment of the Supreme Court in ***Chairman, U.P.Jal Nigam & Anr. Vs. Jaswant Singh & Anr., Appeal (Civil) No.4790/2006*** wherein it has been held that in determining whether there has been such delay as to amount to laches, the chief points are (i) acquiescence on the claimant's part; and (ii) any change of position that has occurred on the defendant's part.

7. However, this Court is of the view that even if it is presumed that the petitioner has been filing repeated representations, it would not extend the period to file the writ petition.

8. The Supreme Court in ***Naresh Kumar vs. Department of Atomic Energy and Others***, (2010) 7 SCC 525 has held as under:-

“15. Merely because the case of the appellant was forwarded by the Department vide its Letter dated 27-1-2007 for favourable consideration, would not vest any right in the petitioner and can hardly be of any material consequence. If an employee keeps making representation after representation which are consistently rejected then the appellant cannot claim any relief on that ground. We are unable to find any merit in the contention raised before us and we are also of the view that the High Court was not in error while dismissing the writ petition even on the ground of unexplained delay and laches. The representation of the appellant was rejected as back in the year 1999 and for the reasons best known to the appellant he did not challenge the same before the court of competent jurisdiction.”

9. Furthermore, the Supreme Court in ***State of Uttaranchal and Anr. vs. Sri Shiv Charan Singh Bhandari and Ors.***, 2013 (11) SCALE 56 has held as under:-

“15. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix. Similarly, a mere submission of representation to the competent authority does not arrest time. In *Karnataka Power Corporation Ltd. through its Chairman and Managing Director v. K. Thangappan and Anr.* (2006) 4 SCC 322, the Court took note of the factual position and laid down that when nearly for two decades the Respondent-workmen therein had remained silent mere making of representations could not justify a belated approach.

16. In State of Orissa v. Pyarimohan Samantaray (1977) 3 SCC 396 it has been opined that making of repeated representations is not a satisfactory explanation of delay. The said principle was reiterated in State of Orissa v. Arun Kumar Patnaik (1976) 3 SCC 579.

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18. In State of T.N. v. Seshachalam (2007) 10 SCC 137, this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus: ...filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant.

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22. We are absolutely conscious that in the case at hand the seniority has not been disturbed in the promotional cadre and no promotions may be unsettled. There may not be unsettlement of the settled position but, a pregnant one, the Respondents chose to sleep like Rip Van Winkle and got up from their slumber at their own leisure, for some reason which is fathomable to them only. But such fathoming of reasons by oneself is not countenanced in law. Anyone who sleeps over his right is bound to suffer. As we perceive neither the tribunal nor the High Court has appreciated these aspects in proper perspective and proceeded on the base that a junior was promoted and, therefore, the seniors cannot be denied the promotion. Remaining oblivious to the factum of delay and laches and granting relief is contrary to all settled principles and even would not remotely attract the concept of discretion.

We may hasten to add that the same may not be applicable in all circumstances where certain categories of fundamental rights are infringed. But, a stale claim of getting promotional benefits definitely should not have been entertained by the tribunal and accepted by the High Court. True it is, notional promotional benefits have been granted but the same is likely to affect the State exchequer regard being had to the fixation of pay and the pension. These aspects have not been taken into consideration. What is urged before us by the learned Counsel for the Respondents is that they should have been equally treated with Madhav Singh Tadagi. But equality has to be claimed at the right juncture and not after expiry of two decades. Not for nothing, it has been said that everything may stop but not the time, for all are in a way slaves of time. There may not be any provision providing for limitation but a grievance relating to promotion cannot be given a new lease of life at any point of time.

(emphasis supplied)

10. Consequently, present writ petition is dismissed on the ground of petitioner's lack of locus standi and being barred by laches.

MANMOHAN, J

SEPTEMBER 01, 2016

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