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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 8387/2015 & CM APPLs. 21833-81835/2015

JAGDISH PRASAD VERMA Petitioner

Through Mr. Ravi P. Shukla, Advocate

versus

DELHI STATE INDUSTRIAL AND
INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD. (DSIDC) & ANR Respondents

Through Ms. Renuka Arora with Mr. Abhishek
Pundir, Advocates for DSIIDC.
Mr. Satyakam, ASC (Civil), GNCTD.

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Date of Decision : 4th April, 2016

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 allotment of industrial plot under a relocation scheme.
2. Admitted facts are that petitioner had applied for allotment under the relocation scheme in the year 1996. The petitioner's factory had been shut down in 2002. However, present writ petition has been filed only in the year 2015.

3. Learned counsel for petitioner states that petitioner had issued a legal notice dated 18th September, 2013 and, therefore, present writ petition is not barred by laches.

4. It is settled law that one of the several rules of self-imposed restraint evolved by the superior courts is that High Court will not entertain petitions filed after long lapse of time because that may adversely affect the settled rights of the third parties. It has also been held by the Apex Court that if the writ petition is filed beyond the period of limitation prescribed for filing a civil suit, the High Court will normally treat the delay as unreasonable and decline to entertain the grievance of the petitioner on merits. In the opinion of this Court, the test to be applied is whether laches on the part of the petitioner is such as to hold that the petitioner by its act and conduct has given a go-by to his rights.

5. The Supreme Court with regard to delay and laches in ***State of Madhya Pradesh and another vs. Bhailal Bhai & Anr., AIR 1964 SC 1006*** has held, “.....*Learned Counsel is right in his submission that the provisions of the Limitation Act do not as such apply to the granting of relief under Art.226. It appears to us however that the maximum period fixed by the legislature as the time within which the relief by a suit in a civil court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Art. 226 can be measured. This Court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the Court to hold that it is unreasonable.....*”

6. Moreover, the Supreme Court in ***Banda Development Authority,***

Banda Vs. Moti Lal Agarwal & Ors., (2011) 5 SCC 394 has held “It is true that no limitation has been prescribed for filing a petition under Article 226 of the Constitution but one of the several rules of self-imposed restraint evolved by the superior courts is that the High Court will not entertain petitions filed after long lapse of time because that may adversely affect the settled/crystallised rights of the parties. If the writ petition is filed beyond the period of limitation prescribed for filing a civil suit for similar cause, the High Court will treat the delay unreasonable and decline to entertain the grievance of the petitioner on merits.”

7. Furthermore, the Supreme Court in ***State of Uttarakhand 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)

8. This Court is of the opinion that petitioner by not agitating its rights for a long period of time has, by its conduct, conveyed to respondents that it had given a go-by to its rights.

9. Moreover, no relocation scheme can be open ended and applicants cannot seek relief under such scheme after a long lapse of time. After all, no statutory authority can be asked to verify records after a long period of time. Further, asking the authorities to verify documents after inordinate delay increases the chance of abuse of the welfare schemes by scamsters.

10. Consequently, this Court is of the view that present writ petition is barred by laches and legal notice by the petitioner would not extend the period for filing the writ petition. Accordingly, present writ petition and applications are dismissed.

MANMOHAN, J

APRIL 04, 2016

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