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

+ LPA No.271/2017 and CM No.14076/2017

% Date of decision : 17th April, 2017

BALWAN SINGH Appellant
Through : Mr. Samrendra Kumar and
Mr. Kislay Komal, Advs.

versus

INDIAN INSTITUTE OF TECHNOLOGY ... Respondent
Through : None.

**CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE ANU MALHOTRA**

JUDGMENT (ORAL)

ACTING CHIEF JUSTICE

1. The appellant assails the order dated 7th February, 2017 passed by the ld. Single Judge dismissing the W.P.(C)No.887/2017. By way of the writ petition, filed under Article 226 of the Constitution of India, the petitioner had sought the relief of ante-dating his selection to the post of Catering Supervisor as to be w.e.f. 1st September, 1989 instead of 1st September, 1990 as had been done by the respondent.
2. The impugned order notes that the petitioner's request for ante-dating the date of selection was first rejected by the

respondent by the order dated 12th June, 2000.

3. It is noted that the petitioner made yet another representation for the same purpose on the 17th June, 2000 which was also rejected on 8th of August 2000.

4. The appellant before us continued to make subsequent and repeated representations which were rejected by the competent authority of the respondent institute on 9th August, 2001; 5th September, 2001 and 5th April, 2006. Again by the communications dated 19th February, 2009, the appellant was informed by the respondent that his representations stood rejected and therefore, the matter could not be reconsidered. It appears that even this did not dissuade the appellant who continued to make representations on 18th January, 2010 and 19th May, 2015 to the same effect. Reliance was made in the writ petition on the rejection of the petitioner's representation on 4th of February 2016 and 15th of March 2016.

5. It was only subsequent thereto that in the year, 2017, the appellant sought to invoke the extraordinary remedy by way of the writ petition under Article 226 of the Constitution of India seeking setting aside of the rejections and ante-dating the date of his original selection w.e.f. 1st of September 1989.

6. It cannot be denied that the cause of action, if any, accrued in favour of the appellant, at best, when the first order of rejection of the appellant's representation was passed on 12th June, 2000. The appellant took no steps for challenging the same by way of any appropriate legal remedy including the filing of a writ petition.

Instead he was satisfied by making mere representations to the respondent without anything more. Certainly, the fairness of the respondent in responding each time to the representation made by the appellant, cannot cause a fresh cause of action to accrue in favour of the appellant.

7. The Id. Single Judge has noted the pronouncement of the Supreme Court in *(2011) 3 SCC 436, State of Orissa & Anr. v. Mamta Mohanty* in support of the proposition that the law of limitation applies to the writ petition. It is trite that undue & unexplained delay and laches would certainly be held against a person who invokes the remedy by way of writ petition under Article 226 of the Constitution of India.

8. Mr. Samrendra Kumar, Id. counsel for the appellant has placed reliance on the pronouncement of the Supreme Court reported at *(1995) 5 SCC 628, M.R. Gupta v. Union of India* to contend that each time the appellant was paid salary, he became entitled to invoke his remedy by way of petition under Article 226 of the Constitution of India.

In the present case, the respondent has rejected the appellant's basic relief as far back as on 12th June, 2000.

9. Id. counsel for the appellant also places reliance on an order of the Supreme Court dated 13th of July 2015 passed in SLP(C)No.14385/2014 regarding a claim for compassionate appointment, failing which grant of extraordinary pension of the services of a deceased employee were considered to be paid and were agreed to be paid by the State of U.P. This order was passed

in the facts and circumstances of the case. The appellant can claim no parity with the petitioner therein.

10. We find no infirmity in the finding of the Id. Single Judge that the petitioner was disentitled to invoke the remedy by way of the writ petition.

11. We therefore, find no merit in this appeal as well as application which are hereby dismissed.

ACTING CHIEF JUSTICE

ANU MALHOTRA, J

APRIL 17, 2017

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