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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) No. 887/2017

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7th February, 2017

BALWAN SINGH

..... Petitioner

Through: Mr. Uday Gupta, Mr. Hiren Dasan,
Mr. Chand Qureshi and Mr. K.
Venkata Reddy, Advocates.

versus

INDIAN INSTITUTE OF TECHNOLOGY

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition under Article 226 of the Constitution of India, petitioner seeks the relief of ante-dating of the petitioner's selection to the post of Catering Supervisor as to be w.e.f 1.9.1989 instead of from 1.9.1990.

2. Though there are certain earlier factual events, however the relevant facts, so far as required for decision of the present petition is concerned, start as per para 2.8 of the writ petition onwards. It is pleaded by the petitioner that the petitioner's ante-dating request effectively was

rejected in terms of the order dated 12.6.2000 of the respondent/employer. Against this act of the respondent denying benefit of ante-dating of one year to the petitioner, petitioner made a representation on 17.6.2000 which was rejected on 8.8.2000 i.e around 16 years prior to today. The subsequent paragraphs of the writ petition show that subsequent and repeated representations were made by the petitioner, and which representations were rejected by the competent authority on 9.8.2001 and 5.9.2001. Thereafter, fresh representations were again made by the petitioner and which were rejected on 5.4.2006. Once again petitioner was informed by the respondent by its communication dated 19.2.2009 that the petitioner's case stood rejected and therefore, cannot be reconsidered. A further rejection to the same effect by the respondent of the representations of the petitioner is on 18.1.2010 as also 19.5.2015. Another rejection of the representation of the petitioner is on 4.2.2016. Once again, since representations were made, the respondent again rejected the representations of the petitioner on 15.3.2016.

2. The law of limitation applies to a writ petition vide judgment of the Supreme Court in the case of *State of Orissa and Another Vs. Mamta Mohanty (2011) 3 SCC 436*. The relevant paras of this judgment read as under:-

“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.

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.”

3. It is settled law that repeated representations will not extend the period of limitation and merely because the petitioner kept on making fresh representations and the respondent/employer rejecting the same, no fresh cause of action will accrue. The cause of action accrued for the first time in favour of the petitioner and against the respondent/employer when the petitioner was held unsuccessful in ante-dating proceedings dated 12.6.2000 and petitioner's representation dated 17.6.2000 was rejected way back on 8.8.2000.

4. In view of the above, this writ petition filed in 2017 is barred by limitation and is thus dismissed by applying the doctrine of delay and *laches*.

FEBRUARY 07, 2017/ib

VALMIKI J. MEHTA, J

