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

% *Date of Judgment: 19th July, 2018*

+ **LPA 141/2017**

SANTOSH RAJPOOT

..... Appellant

versus

GANGA INTERNATIONAL SCHOOL & ORS. Respondents

+ **LPA 143/2017**

PREETI SHARMA

..... Appellant

versus

GANGA INTERNATIONAL SCHOOL & ORS. Respondents

+ **LPA 144/2017**

RANJANA LONGJAM

..... Appellant

versus

GANGA INTERNATIONAL SCHOOL & ORS. Respondents

Present: Mr.Ashok Agarwal, advocate for the appellants in all the matters.
Mr.Kamal Gupta, Ms.Tripti Gupta and Mr.Raunaq Dutt, advocates for respondents no.1 & 2 in all the matters.
Mr.Sanjoy Ghose, Mr.Shwetank Singh and Mr.Rishabh Jetley, Advts. for GNCTD.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. All the three appeals arise out of a common order dated 19.01.2017 passed by a learned Single Judge of this Court, by which part relief was allowed in favour of the appellants herein and the relief has been restricted to a period of three years i.e. three years prior to filing of the writ petitions. The details of which read as under:

L.P.A No.	Date of filing of the writ petition	Date from where relief will be entitled	Date upto which they are entitled to relief
141/2017	01.04.2015	01.04.2012	01.05.2015
143/2017	01.04.2015	01.04.2012	17.06.2013
144/2017	01.04.2015	01.04.2012	08.07.2014

2. Mr. Ashok Agarwal, learned counsel appearing for the appellants submits that the learned Single Judge has failed to take into consideration that the law of limitation does not apply to proceedings under Article 226 of the Constitution, although the Court would be well within its right to deny the relief in case of unexplained delay and latches.
3. Mr. Agarwal submits that in the present case, the appellants cannot be faulted for approaching this Court belatedly. He submits that they were misled by the school and the school kept making assurances that the payment would be made as and when the fee is received from the students. He further submits that the appellants had made a complaint to the Director of Education and the notice was issued to the school and even before the Director of Education, an assurance was given that the payment would be released in favour of the school teachers and thus, the delay has been well explained. Counsel further submits that the school cannot be allowed to enrich itself at the cost of the poor teachers and deprive their rightful benefits from the date of circular issued by the Directorate of Education dated 11.02.2009. It is contended that the action on the part of the school is arbitrary and thus, liable to be quashed.

4. Learned counsel appearing for the respondents submits that the learned Single Judge has rightly denied the reliefs so claimed by the appellants. The delay in approaching the Court is completely unexplained as it is not disputed that the circular sought to be relied upon was issued as far back as in the year 2009
5. We have heard learned counsels for the parties. We may note that the learned Single Judge has allowed the writ petitions filed by the appellants in part and has restricted the claim of the appellants to three years before filing of the writ petition. This aspect has been dealt with in para 9 of the impugned judgment which reads as under:

“9. Petitioner will be entitled to her salary in terms of the Sixth Pay Commission Report up to a period of three years prior to 1.4.2015 i.e w.e.f. and after 1.4.2012. Petitioner resigned from her services with the respondent no.1/school on 17.6.2013, and therefore, petitioner will be entitled to her salary as per the Sixth Pay Commission Report from 1.4.2012 till 17.6.2013, provided such amount is not already paid to the petitioner. It is held that for the period of dues prior to 1.4.2012, the same would be time barred and hence would not be payable to the petitioner in terms of the reasoning given above and the ratio of the judgment of the Supreme Court in the case of Mamata Mohanty (supra).”

6. In the case of **Union of India and others vs. Tarsem Singh** reported in **(2008) 2 SSC (L&S) 765**, it was held as under:

“7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted

even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the re-opening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. In so far as the consequential relief of recovery of arrears for a past period, the principles relating to recurring/successive wrongs will apply. As a consequence, High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.”

7. In the case of ***State of Orissa and others vs. Mamata Mohanty*** reported at **(2011) 3 SCC 436**, it was held 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 the appellate stage because in some of the cases it may go to the root of the matter. (See *Lachmi Sewak Sahu v. Ram Rup Sahu* [AIR 1944 PC 24] and *Kamlesh Babu v. Lajpat Rai Sharma* [(2008) 12 SCC 577] .)*

53. Needless to say that the 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 : AIR 1989 SC 674] , *State of Karnataka v. S.M. Kotrayya* [(1996) 6 SCC 267 : 1996 SCC (L&S) 1488] and *Jagdish Lal v. State of Haryana* [(1997) 6 SCC 538 : 1997 SCC (L&S) 1550 : AIR 1997 SC 2366] .)”*

8. Having regard to the aforesaid decisions, we find no infirmity in the judgment passed by the learned Single Judge. We find no merit in these appeals. The same are accordingly dismissed.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

JULY 19, 2018//rb