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

+ W.P.(C) 9895/2018 & C.M. No. 38552/2018

SHAHID KHAN

..... Petitioner

Through: Mr. Somu Chakraborty, Senior Advocate
with Mr. Asad Iqbal, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Vineeta Bansal and
Ms. Manisha Agarwal, Advocates.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **19.09.2018**

1. The petitioner is aggrieved by the non-inclusion of his name in the lists of Constable (GD) declared by the respondent/ITBP pursuant to an advertisement issued in the year 2011.
2. The brief facts of the case are that the respondent No.1, through SSC had conducted recruitment to the post of Constable (GD) in the ITBP Force in January, 2011. The petitioner being an aspirant, had submitted an application on 14.2.2011 under the 'OBC' category. The petitioner had cleared the PST, PET and the written examination. The petitioner was declared provisionally qualified for a Detailed Medical Examination (DME) in which too he was declared medically fit. Thereafter, all the documents submitted by the petitioner were verified by the ITBP wherein, an objection

was raised that the 'OBC' certificate produced by him was not in terms of the requirement laid down by the SSC. However, there is no document placed on record to substantiate the said submission.

3. It is the version of the petitioner that on 22.2.2011, when he enquired from the Tehsildar, Nagina, Haryana, about the format of the 'OBC' certificate, he was informed that there is only one format that is followed by them. It is averred in the petition that the petitioner's name did not feature in the two reserve lists issued on 13.9.2011 and 18.5.2012. Instead of raising a timely objection about non-inclusion of his name in the said two reserve lists, the petitioner sat back and did not take any legal recourse for over six long years.

4. The submission made by learned counsel for the petitioner is that petitioner had recently received a reply dated 01.08.2018 to his RTI application wherein, he was informed that he had obtained 41 marks in the concerned examination and 13 numbers in part A. On receiving the said information, it dawned on the petitioner that the marks of the last selected candidate under the 'OBC' category were 39, whereas his marks were 41. We may note that the marks of the last selected candidate were well in the knowledge of the petitioner in May, 2012 itself as the SSC had placed on its website the information with regard to the marks of the last selected candidate under the 'SC', 'ST', 'OBC' and 'UR' categories. If the petitioner had any query with regard to the marks obtained by him, then he should have taken immediate steps to seek information from the SSC in this regard. However, he went into deep slumber for almost six years and chose to file

an application under the RTI Act only on 24.7.2018. The information gathered through the RTI route just last month, cannot be a ground to challenge the two reserve lists after such a prolonged delay, nor can it be treated as a fresh cause of action.

5. We are of the opinion that the petition is hopelessly barred by delay and *laches* and the same is accordingly dismissed in *limine* alongwith the pending application.

HIMA KOHLI, J

REKHA PALLI, J

SEPTEMBER 19, 2018

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