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

Date of Decision:- 09.04.2019

+ W.P.(C) 3580/2019 & C.M.No.16432/2019

DEEPAK KUMAR GULIA

..... Petitioner

Through Dr.S.S.Hooda, Adv.

versus

STAFF SELECTION COMMISSION AND ORS. Respondent

Through Mr.Vishal Mittal, Adv for R-1 to 3.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

VIPIN SANGHI, J (ORAL)

1. The petitioner assails the order dated 07.02.2019 passed by the Central Administrative Tribunal, New Delhi in O.A.No.868/2018. The Tribunal has rejected the said original application preferred by the petitioner on the grounds of delay, *laches* and limitation.

2. The petitioner was one of the candidates, who had applied in response to an Advertisement dated 24.03.2012 issued by the Staff Selection Commission (SSC) calling for applications to appear for the Combined Graduate Level Examination (CGL-2012). The petitioner appeared in the TIER I and TIER II examinations and was called for interview. He was successful in the interview as well, whereafter the respondent held an inquiry with the help of experts, who scrutinised and analysed the objective type multiple choice answers given by the

candidates and concluded that several candidates, including the petitioner, had resorted to copying. The petitioner and several other candidates were issued show-cause notices asking them to reply to the charge of adopting unfair methods and cheating in the examination. The petitioner sent his response on 13.06.2013 to the said show-cause notice dated 27.05.2013. The result of the petitioner was not declared in the light of the show-notice issued to him, but the petitioner took no further steps in the matter till he preferred the original application on 15.02.2018 i.e. after nearly 4.5 years of his responding to the show-cause notice.

3. The submission of the petitioner was that in the case of several other candidates, who were similarly issued notices by the respondent, they had preferred original applications before the Tribunal, which O.As had been allowed by the Tribunal on 30.07.2014 on the ground that the show-cause notices were vague and candidates could not respond to the same effectively. The writ petition preferred before this Court by the respondents impugning the Tribunal's order dated 30.07.2014 was also dismissed on 19.12.2014 [*W.P.(C)No. 9055/2014, Staff Selection Commission & Anr. vs. V. Sudesh*]. The Supreme Court also dismissed the respondents' Appeals [*Civil Appeals No.2836-2838/2017*] on 19.07.2017, whereafter even the review petitions [*Review Petitions(Civil) No2417-2419/2017*] were dismissed by the Supreme Court on 31.10.2017. The submission of the petitioner was that the decision of this Court in *W.P.(C)No.9055/2014* was a decision in *rem* and not in *personam*

and, therefore, the same was applicable to all similarly situated candidates, including the petitioner.

4. The petitioner contended that the original application was, therefore, not barred by delay, *laches* and limitation and the petitioner was entitled to approach the Tribunal, which he did in 2018. The Tribunal has rejected this submission of the petitioner by observing that the judgment of this Court could not be construed as one in *rem*.

5. Learned counsel for the petitioner again submits before us that the decision of this Court in *W.P.(C)No.9055/2014* is a judgement in *rem*. He submits that this Court has found the policy of the respondents - of undertaking the exercise of scrutiny of the answer-scripts of the candidates through an expert body to be a faulty policy decision. We do not find any merit in this submission.

6. A perusal of the judgment in *W.P.(C)No.9055/2014* shows that this Court had not found the decision of the respondents to undertake the process of scrutiny and analysis of the answer-scripts by employing an expert agency to be an unsound policy. All that this Court held was that the particular show-cause notices issued to the original applicants/respondents in that case were deficient. While deciding the *W.P.(C)No.9055/2014*, this Court had not issued any direction that it would be applicable in respect of all candidates, who had been issued similar show-cause notices, and were not parties before it.

7. Learned counsel for the petitioner has sought to place reliance on the decision in *State of Uttar Pradesh & Ors. v. Arvind Kumar Srivastava & Ors. (2015) 1 SCC 347* to submit that the decision of

this Court was a decision in *rem*. We have perused the said decision and in particular para 22 thereof, on which reliance has been placed. We are of the view that reliance placed on the said decision is misplaced, for the reason that the petitioner having been issued a show-cause notice, it was for him to assail the particular show-cause issued to him on the grounds available to him.

8. The petitioner is now seeking adjudication *qua* the show-cause notice issued to him, by claiming that the same is similar to the notices issued to the other original applicants, who had earlier preferred their original applications in time. In our view, a scrutiny of the show-cause notice issued to the petitioner cannot be undertaken at this highly belated stage.

9. The object behind the prescription of the period of limitation and denying relief to the petitioner/applicant who approaches the Courts and Tribunal with delay and *laches*, is to bring about stability and certainty, and put a quietus to state claims. If the submission of the petitioner were to be accepted, it would mean that the examination process - which started in 2012, would remain open ended and other candidates would keep springing up from time to time, claiming the same relief only on account of the fact that others - who had approached the Tribunal in time, got relief from the Tribunal; which decision of the Tribunal was affirmed by this Court, and, thereafter by the Supreme Court. The petitioner was clearly a fence sitter and, therefore, in our view is not entitled to any relief.

10. Lastly, the learned counsel for the petitioner has placed reliance on a communication issued to one Mr. Pravesh by the respondents,

wherein the respondents by placing reliance on the judgment of the Supreme Court in the case of Ms.Sudesh Kumari dated 19.07.2017, had selected him for the post in question. It is contended that the said Mr.Pravesh was a candidate in the CGL Examination, 2011 and was given the benefit of the said decision of the Supreme Court, but the petitioner has been denied to the same treatment in respect of the CGL Examination, 2012. We do not have the specific particulars of the said case and, therefore, the same cannot form the basis of the petitioner's claim.

11. The petition is dismissed in the aforesaid terms alongwith pending application.

VIPIN SANGHI
(JUDGE)

REKHA PALLI
(JUDGE)

APRIL 09, 2019

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