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

+ **W.P.(C) 8733/2021 & CM APPL. 27212/2021**

ARVIND KUMAR CHAUBEY AND ORS. Petitioners

Through: **Mr. Abhay Kumar Bhargava,**
Advocate.

versus

UNION OF INDIA AND ORS. Respondents

Through: **Mr. Virender Pratap Singh Charak,**
Advocate.

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Date of Decision: 23rd August, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J: (Oral)

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed seeking implementation of the directions stipulated in the Order dated 14th March, 1978 issued by Department of Expenditure, Ministry of Finance, Government of India for fixation of pay of the petitioners from the date of approval of promotion for the next higher grade i.e. the date of declaration of the result for the next higher grade pay. Petitioners also seek quashing of the communication dated 28th September, 2016 vide which the Petitioners were held disentitled from

the benefit of ACP/MACP and the benefit of next pay grade from the date of reporting for training.

3. Learned counsel for the petitioners states that the issue in the present writ petition is that the petitioner's pay as HC/RM was fixed by the department w.e.f. 10th November, 1994 i.e., date of posting to the higher grade instead of 14th June, 1993 i.e. day of joining the training as per movement order. It is his submission that this question of law has been settled by this Court vide judgment dated 07th December 2015, pronounced in W.P.(C) 5799/2015 titled ***K. Bangaru Naidu and Ors. vs. Ministry of Home Affairs and Anr.***

4. Mr. Virender Pratap Singh Charak, Advocate, who appears on advance notice for Union of India, states that the present writ petition is barred by delay and laches as the petitioners have been granted first and second ACP many years ago.

5. Having perused the paper book, this Court finds that the cause of action to file the present writ petition arose on 14th June, 1993 i.e. twenty eight years ago. Further, the judgment in W.P.(C) 5799/2015 relied upon by the petitioners, had been passed on 07th December, 2015 i.e., six years ago. Also the representation made by the petitioner was rejected on 29th September, 2016 i.e., nearly five years ago. Consequently, this Court is of the view that the present writ petition is barred by delay and laches. In fact, the Supreme Court in the case of ***Chairman/Managing Director, U.P. Power Corporation Ltd. & Ors. vs. Ram Gopal, 2020 SCC OnLine SC 101*** has held that delay defeats equity and law favours the vigilant and not the indolent. The relevant portion of the said judgment is reproduced hereinbelow:-

“16. Whilst it is true that limitation does not strictly apply to proceedings under Articles 32 or 226 of the Constitution of India, nevertheless, such rights cannot be enforced after an unreasonable lapse of time. Consideration of unexplained delays and inordinate laches would always be relevant in writ actions, and writ courts naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester. Fencesitters cannot be allowed to barge into courts and cry for their rights at their convenience, and vigilant citizens ought not to be treated alike with mere opportunists. On multiple occasions, it has been restated that there are implicit limitations of time within which writ remedies can be enforced. In SS Balu v. State of Kerala, this Court observed thus:

“17. It is also well-settled principle of law that “delay defeats equity”. ...It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment.”

17. Similarly, in Vijay Kumar Kaul v. Union of India this Court while considering the claim of candidates who, despite being higher in merit, exercised their right to parity much after those who were though lower in merit but were diligently agitating their rights, this Court observed that:

“27. ...It becomes an obligation to take into consideration the balance of justice or injustice in entertaining the petition or declining it on the ground of delay and laches. It is a matter of great significance that at one point of time equity that existed in favour of one melts into total insignificance and paves the path of extinction with the passage of time.”

6. It has also been repeatedly held by the Supreme Court that repeated representations by the petitioner would not extend the time period to file the writ petition. Accordingly, the present writ petition along with pending application is dismissed on the ground of delay and laches.

7. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

NAVIN CHAWLA, J

AUGUST 23, 2021
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