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

Date of decision: 02nd NOVEMBER, 2022

IN THE MATTER OF:

+ **LPA 621/2022 & CM APPLs. 46892-94/2022**

RAMSHARAN

..... Appellant

Through: Mr. Gaganpreet Singh, Advocate with
Appellant in person.

versus

**THE CHAIRMAN INDIAN OIL CORPORATION
LTD**

..... Respondent

Through:

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Appellant seeks to challenge the Order dated 28.10.2021, passed by the learned Single Judge in W.P. (C) 12261/2021, dismissing the Writ Petition filed by the Appellant herein.

2. The facts, in brief, leading to the present appeal reads as under:

- a) The Appellant herein was appointed as a Grade A Operational Officer at the Shakur Basti Plant of the Respondent No.1 herein on 25.06.1984 and he was confirmed to the said post on 25.06.1985. The Appellant herein was granted his first promotion as Grade B Officer on 29.05.1990. The Appellant was, thereafter, promoted as Grade C Officer on 04.04.1995, as Grade D Officer on 31.03.2001, as Grade E Officer on

31.03.2006 and as Grade F Officer on 04.04.2014. It is stated that the Appellant herein retired on 30.04.2018.

- b) It is the case of the Appellant herein that the Appellant ought to have been promoted as Grade C Officer in the year 1994 when the same benefit was given to an officer who was his batch mate. It is stated that the Appellant was entitled to be promoted as Grade D Officer in 1998 and as Grade E Officer in 2002 and to Grade F in 2005. A chart showing the actual year of promotion and the year the Appellant claims to have been promoted is as under:

Grade	Year when the Appellant claims to have been promoted	Year of actual promotion
C	1994	1995
D	1998	2001
E	2002	2006
F	2005	2014

- c) The Appellant herein filed the Writ Petition, being W.P. (C) 12261/2021, with the following prayers:

"a. To issue appropriate order / direction / mandamus to upgrade the Annual Confidential Reports/e PMS (Employee Performance Management System) of the Petitioner for the relevant years so that he may be given his promotions up to the level of ED from the date when the same were due i.e. in the years 1994,

1998, 2002, 2005, 2009, 2013 and 2017 with consequential monetary and other back benefits;

b. To issue appropriate order/direction/mandamus to accept the claim of 108 Compensatory offs earned on performing of 12 hrs. continuous Duty on a planned rota, should be given as per policy Circular No. 2006/HR/82;

c. To give the Petitioner relief by way of credit of 57 days to his Earned Leave account as compensation;

d. To constitute a Committee of former judges of this Hon'ble Court who may examine the status of SC/ST employees of all Public Sector Units and submit its report before this Hon'ble Court;

e. Pass such other order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in hand."

- d) The learned Single Judge, *vide* Order impugned herein, dismissed the said Writ Petition on the ground that the Petition was hit by the principles of delay and laches. The learned Single Judge has observed that the Petitioner in the Writ Petition (Appellant herein) ought to have approached the Court in the year 1994/1995 itself. Relevant portion of the said Order reads as under:

"7. The plea of the learned counsel for the petitioner is, the petitioner did not approach this Court during his tenure being apprehensive, that the officers, may take coercive action with relation to his employment, does not appeal to the Court.

The very fact that the petitioner had approached the Supreme Court and this Court in the years 2019 and 2021 respectively, he could have approached the Court even in the year 1994 / 1995 and even subsequently."

3. It is contended by the learned Counsel for the Appellant that the Appellant had been subjected to hostile treatment inasmuch as he has been discriminated against officers belonging to higher castes and that the Appellant has been given unfair treatment only because of the fact that he belongs to a lower caste. It is contended that one Mr. R. S. Dahiya, who was similarly situated to the Appellant herein, was promoted as Grade C Officer in 1994 whereas the Appellant herein was promoted as Grade C Officer in 1995 and there was no reason to deny the same benefit to the Appellant herein in 1994 given that his performance was equally good, if not better than Mr. R. S. Dahiya.

4. Learned Counsel for the Appellant submits that the Appellant has given representations before the National Commission for Scheduled Castes and also before the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes, but no action has been taken. It is stated that the Appellant herein had also approached the Apex Court by filing W.P.(C) 1209/2019 and *vide* Order dated 13.01.2019, the Appellant herein was permitted to withdraw the said Writ Petition with liberty to approach the High Court. Learned Counsel for the Appellant submits that after retirement, the Appellant herein approached this Court within reasonable time and, therefore, the learned Single Judge ought not to have dismissed the Writ Petition on the ground of delay and laches.

5. Heard learned Counsel appearing for the Appellant, and perused the

material on record.

6. It is well settled that if a person is denied promotion at a time when he is entitled to, he has a right to approach the Court of law to ventilate his grievances, and contend that there was no legal justification to ignore him and the employer could not extend promotional benefits to others while ignoring him. However, it is also equally well settled that the employees cannot approach the Court belatedly to raise stale claims by contending that they were waiting for their representations to be considered. It has been repeatedly held that filing a representation alone will not save the party from limitation, and that delay and laches is a relevant factor of Courts of law to determine the question as to whether the claim made by an applicant deserves consideration or not. It is also settled that delay and laches on the part of the employee might deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant [Refer: State of T.N. v. Seshachalam, (2007) 10 SCC 137].

7. The Apex Court in P.S. Sadasivaswamy v. State of T.N., (1975) 1 SCC 152, while considering the claim of an employee of the State of Tamil Nadu which was raised after 24 years, has observed as under:

"2. A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226

in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner's petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work."

8. The abovementioned paragraphs were noted by the Apex Court in State of Uttaranchal v. Shiv Charan Singh Bhandari, (2013) 12 SCC 179, and the Apex Court has observed as under:

"27. We are absolutely conscious that in the case at hand the seniority has not been disturbed in the promotional cadre and no promotions may be unsettled. There may not be unsettlement of the settled position but, a pregnant one, the respondents chose to sleep like Rip Van Winkle and got up from their slumber at their own leisure, for some reason which is fathomable to them only. But such fathoming of reasons by oneself is not countenanced in law. Anyone who sleeps over his right is bound to suffer. As we perceive neither the Tribunal nor the High Court has appreciated these aspects in proper perspective and proceeded on the base that a junior was promoted and, therefore, the seniors cannot be denied the promotion.

28. Remaining oblivious to the factum of delay and laches and granting relief is contrary to all settled principles and even would not remotely attract the concept of discretion. We may hasten to add that the same may not be applicable in all circumstances where certain categories of fundamental rights are infringed. But, a stale claim of getting promotional benefits definitely should not have been entertained by the Tribunal and accepted by the High Court."

The judgment of the Apex Court in Shiv Charan Singh Bhandari (supra) has been followed in Akshya Bisoi v. AIIMS, (2018) 3 SCC 391 and Union of India v. C. Girija, (2019) 15 SCC 633.

9. Applying the said principles to the facts of the present case, according to the Appellant, he was deprived of his promotion when he was to be promoted to Grade C Officer in 1994. Admittedly, there was delay in his promotion to Grade D Officer, wherein, according to the Appellant he ought to have been promoted as Grade D Officer in 1998 whereas he was actually promoted in 2001. Similarly, there was delay in his promotion to Grade E Officer wherein, according to him, he ought to have been promoted in 2002 whereas he was actually promoted in 2006, and as Grade F Officer also, wherein he was actually promoted in 2014 whereas according to the Appellant he ought to have been promoted in 2005.

10. Assuming that the Appellant had approached this Court in 2019, then also it was only after a lapse of 25 years from his first promotion, which according to him ought to have been granted to him in 1994, but was actually granted in 1995. Other than stating that he has been discriminated on the basis of caste and that he has given certain representations to the National Commission for Scheduled Castes and also before the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes and that he was fearing repercussions for approaching the Court, the Appellant herein has not given any acceptable reason as to why he has approached the Court belatedly. A claim for promotion is based on the concept of equality and equitability, but the said relief has to be claimed within a reasonable time [Refer: Ghulam Rasool Lone v. State of J&K, (2009) 15 SCC 321].

11. In view of the above, this Court finds no reason to interfere with the judgment of the learned Single Judge. Accordingly, the appeal is dismissed, along with pending application(s), if any.

SATISH CHANDRA SHARMA, C.J.

SUBRAMONIUM PRASAD, J

NOVEMBER 02, 2022

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