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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 08th December, 2022

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W.P.(C) 16464/2022 & CM APPL. 53230/2022

SNIGDHA

..... Petitioner

Through: Mr. Murari Kumar and
Mr. Kshitij Srivastava, Advocates.

versus

FOOD CORPORATION OF INDIA
& ORS.

..... Respondents

Through: Mr. Manoj, Standing Counsel
with Mr. M.T. Reddy, Advocate for FCI.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. Present writ petition has been filed by the Petitioner seeking the following reliefs:

- a. *"That a writ or writs of mandamus or any other appropriate order, or direction be issued to the effect that;*
- b. *That a fresh inquiry to be instituted on the impugned actions of the Respondents;*
- c. *That a fair and thorough investigation to be initiated on the allegation of tampering with answers which was promised to the Petitioner but was never complied by the Respondents and upon any concrete/affirmative findings, appropriate remedy to be instituted in favour of the Petitioner;*
- d. *That both compensatory and punitive damages to be awarded for the loss incurred by the Petitioner; and*
- e. *Pass any order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case."*

2. Subsequently, an application being CM. APPL. 53230/2022, was filed under Order VI Rule 17 CPC for amendment of the writ petition including addition of the following prayers:

“a. Issue a writ or writs in the nature of mandamus or any other appropriate order and/ or direction to the Respondents to perform their duties and;

b. Direct the Respondents to fulfil their legal duty, as a quasi-judicial body, to conduct a sincere hearing on the grievances of the Petitioner;

c. Direct the Respondents and its agents to comply on their promises made to the Petitioner after hearing her grievances, viz.,

- i) Setting up of a Vigilance Committee to inspect about her complains and inquire about the tampering of her answer sheet;*
- ii) Instituting her appointment on the post of Assistant Grade-III (Depo) in Food Corporation of India in case of any affirmative findings by the Respondents and/ or their agents;*
- iii) Pass any other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case for which the Petitioner as in duty bound shall ever pray.”*

3. Petitioner herein is aggrieved by rejection of her candidature for appointment to the post of Assistant Grade-III (Depot) in Food Corporation of India, the Respondents herein.

4. Written examination for selection to the post of Assistant Grade-III (Depot) was conducted on 04.10.2015. Petitioner participated in the selection process, but was unsuccessful in getting an appointment. It is the case of the Petitioner that after the written examination, she was allowed to take the question paper for tallying the marks obtained after the answer key was published. On comparing the answers in the answer key with her own selected options, according to the Petitioner, her total marks should have been around 97, which was above the qualifying criteria/cut-off marks 92. However, the name of the Petitioner did not figure in the name of selected candidates.

5. By a letter dated 08.01.2015 addressed to the CPIO, Department of Food and Public Distribution, Government of India, Petitioner

sought reasons for her non-selection and was informed by a reply dated 15.01.2015 that her application had been forwarded to the concerned authority.

6. It is averred in the petition that Petitioner thereafter filed an RTI application seeking information on her marks and reasons for non-selection but was informed that reasons for non-selection do not come under the purview of the Right to Information Act, 2005. Even on filing an Appeal in 2016, Petitioner was unsuccessful in getting any response. Another RTI application was filed by the Petitioner on 17.05.2016 seeking copy of the OMR sheet and the marks obtained. Petitioner was assured that her application had been forwarded to the Recruiting Agency, however, even after filing two more RTI applications, Petitioner was not provided the information sought.

7. Thereafter, Petitioner filed another application dated 27.08.2016 and finally received the photocopy of her OMR sheet accompanied with a letter dated 25.10.2016 stating that Petitioner had obtained 91 marks out of 120. Upon receiving this information, Petitioner gave representations in the year 2017, questioning the marking in her answer sheet as according to her there was some tampering. As the averments in the writ petition go, thereafter Petitioner kept on writing/meeting the concerned officials but no one was willing to entertain her requests. For almost two years, Petitioner was unable to take recourse to legal remedies on account of Pandemic COVID-19 and has now approached this Court *inter alia* challenging her non-selection.

8. The contention of the Petitioner is that by her assessment, she should have obtained at least 97 marks, which was above the cut-off marks 92 and it is on account of a tampering in her OMR sheet that she has obtained low marks, depriving her of the appointment.

It is also the grievance of the Petitioner that despite several representations/RTI applications, etc., Respondents have deliberately delayed granting her the reasons for her non-selection as well as the marks obtained in the examination, which is a matter of right for any candidate in an examination. It is, therefore, urged that an inquiry be initiated into the impugned actions of the Respondents and damages be imposed apart from granting appointment to the Petitioner to the post of Assistant Grade-III (Depot) with the Respondents.

9. Mr. Manoj, learned Standing Counsel appearing on behalf of the Respondents, on advance copy, takes a preliminary objection to the maintainability of the writ petition on grounds of delay and laches and without prejudice, submits that even on merits, Petitioner has no case as she has obtained 91 marks while the cut-off at the first stage of selection process was 92 marks. It is also submitted that the cut-off marks in the final selection were 98. It is also the case of the Respondents that present selection process relates to 2015 and not only is the challenge highly belated, but in the meantime, a second selection process, undertaken in 2019 has also concluded. It is submitted that recently in the year 2022, a fresh process has been initiated and therefore, at this stage, the clock cannot be put back to the year 2015.

10. I have heard learned counsels for the parties and examined their contentions.

11. Present writ petition lays a siege to a recruitment process initiated in the year 2015 for filling up the posts of Assistant Grade-III (Depot) with the Respondents. Present writ petition has been admittedly filed in the year 2022 and the only explanation rendered by the Petitioner, as discernible from the pleadings in the writ petition, is that all this while, Petitioner was seeking response under the RTI Act,

2005 and was approaching the concerned authorities orally and/or in writing for redressal of her grievances. There is no explanation or an averment in the writ petition and none has been given even today, as to what prevented the Petitioner from approaching this Court in the last 7 years, from the year of the selection process or even after the marks obtained by her in the examination, came to her knowledge and copy of the OMR sheet was made available, way-back in 2016.

12. There is no doubt that there is no strict period of limitation prescribed under the Limitation Act, 1963, for filing a writ petition, however, the principles of Limitation Act have been embodied in the Doctrine of Delay and Laches and it has been held in several judgments that merely on grounds of equity, Courts should not interfere at the instance of a Petitioner whose claims in a writ petition are barred by delay and laches, if the legal rights asserted are not enforced within a reasonable time. This is not to state that in no case a writ Court can exercise its extraordinary jurisdiction under Article 226 of the Constitution of India, however, the question is whether a Court would in a given case, want to exercise that discretion, where the Petitioner has woken from a deep slumber and desires to agitate stale claims. There is a wealth of judicial precedents where the Supreme Court has held that if the Petitioner comes to Court ventilating his grievances after an inordinate delay, the Petition must not be entertained and the exceptions carved out to the general rule of bar of delay and laches are in cases involving pension, pay-scales, etc. where third party rights are not impacted. In matters of appointment, seniority, promotion, etc., the Supreme Court has repeatedly held that delay and laches would be fatal to the claim of a Petitioner since any relief granted to him/her at a belated stage is likely to effect vested rights of third parties accrued in their favour, in the meantime. Any

legal right, howsoever strong, must be exercised and enforced expeditiously and in a manner that does not impact the rights of the other parties. It is equally settled that filing of repeated letters/representation neither extends limitation nor dilutes the doctrine of delay and laches.

13. Tested on this anvil, this Court is of the view that the grievances ventilated by the Petitioner cannot be entertained, as her claims are barred by delay and laches. The selection process in question, concluded in the year 2015 and needless to state, appointments have been made pursuant to the said process. Another selection process initiated in the year 2019, as apprised by learned Standing Counsel for the Respondents, has ended in the meantime, consequent to which further appointments have been made. If the present writ petition is entertained, at this stage, i.e. after the period of 7 years, with no plausible explanation for the inordinate delay, the appointment of the Petitioner, assuming she was to succeed in the writ petition, would impact the rights of those appointed. In the absence of any explanation by the Petitioner as to what prevented her from taking recourse to legal remedies in the last 7 years, this Court finds no reason to interfere.

14. Additionally, it is also noted that Petitioner has obtained 91 marks in the first stage of selection where the cut-off was 92 marks, as informed by the Respondents and therefore, in any case, it would be a futile exercise to entertain the present petition. Insofar as issues relating to alleged tampering in OMR sheet or holding an inquiry into the conduct of the Respondents, are concerned, these cannot be decided in a writ petition under Article 226 of the Constitution of India.

15. For all the aforesaid reasons, the writ petition along with pending application is dismissed.

JYOTI SINGH, J

DECEMBER 08, 2022/*shivam/rk*

