

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

Date of decision: 08<sup>th</sup> FEBRUARY, 2023

IN THE MATTER OF:

+ **LPA 69/2023 & CM APPL.4438/2023**

BANWARI LAL MEENA

..... Appellant

Through: Ms. Kiran Singh, Mr. Ajay Sharma,  
Advocates

versus

LOK SABHA SECRETARIAT

..... Respondent

Through: Mr. Pramod Gupta, Ms. Paridhi Singh,  
Advocates

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**JUDGMENT**

1. The Appellant has filed the present LPA challenging the Judgment dated 12.12.2022 passed by the learned Single Judge in W.P.(C) 16875/2022 dismissing the writ petition on grounds of delay and laches.
2. The Appellant approached this Court by filing a writ petition for issuance of a writ, order or direction, directing the Respondent to appoint the Appellant to the post of Housekeeper Grade-III in the Lok Sabha Secretariat under the Scheduled Tribes (ST) Category.
3. The material on record discloses that the Respondent herein while advertising 27 posts of Housekeeper Grade-III in the year 2017 *vide* Advertisement No.5/2017 had reserved two posts for ST Category candidates.
4. It is stated that the Appellant applied for the said post in the ST Category and submitted all the relevant documents. Results were declared on 17.05.2018 and only one candidate in the ST Category was selected.

According to the Appellant, he was placed at No.2 in the ST Category and he was hopeful for getting an appointment letter from the Respondent, however he did not get any letter of appointment.

5. It is stated that the Appellant's name was not reflected in the appointment list and the Appellant made a representation to the National Commission for Scheduled Tribes on 07.08.2019. He states that due to the lockdown imposed by the Government due to the COVID-19 Pandemic, the Appellant did not pursue his case with the Respondent. He states that he made a representation on 15.03.2021 to the General Secretary of the Lok Sabha and the Speaker, Lok Sabha.

6. It is stated that the Appellant on 16.09.2021 sought information regarding the one unfilled vacancy in the ST Category under the Right to Information Act, 2005. On 12.10.2021, the Appellant received reply from the Respondent stating that one unfilled vacancy in the ST Category was kept for being filled up by a physically handicapped person. Thereafter, the Appellant approached this Court by filing the writ petition in December, 2022.

7. The writ petition has been dismissed by the learned Single Judge on the ground that there is no reasonable explanation by the Appellant as to why he has approached this Court virtually four years after the declaration of results. It was also held by the learned Single Judge that a petition seeking appointment after the expiry of any select panel cannot be entertained. Hence, the Appellant has filed the instant appeal.

8. The Apex Court in several judgments has laid down that what is a reasonable time within which a person should approach the Court, especially, in service matters cannot be put in a straightjacket formula neither can the issue of entertaining nor can the days for entertaining a writ petition by High Court be fixed.

9. Recently, the Apex Court in Chairman, State Bank of India & Anr. v. M J James, **2022 (2) SCC 301**, after analysing several judgments has observed as under:

*“36. What is a reasonable time is not to be put in a straitjacket formula or judicially codified in the form of days, etc. as it depends upon the facts and circumstances of each case. A right not exercised for a long time is non-existent. Doctrine of delay and laches as well as acquiescence are applied to non-suit the litigants who approach the court/appellate authorities belatedly without any justifiable explanation for bringing action after unreasonable delay. In the present case, challenge to the order of dismissal from service by way of appeal was after four years and five months, which is certainly highly belated and beyond justifiable time. Without satisfactory explanation justifying the delay, it is difficult to hold that the appeal was preferred within a reasonable time. Pertinently, the challenge was primarily on the ground that the respondent was not allowed to be represented by a representative of his choice. The respondent knew that even if he were to succeed on this ground, as has happened in the writ proceedings, fresh inquiry would not be prohibited as finality is not attached unless there is a legal or statutory bar, an aspect which has been also noticed in the impugned judgment. This is highlighted to show the prejudice caused to the appellants by the delayed challenge. We would, subsequently, examine the question of acquiescence and its judicial effect in the context of the present case.*

*(emphasis supplied)*

10. Admittedly, the Appellant knew that the results have been declared on 17.05.2018. The Appellant also knew that he is not in the select list immediately thereafter. Other than saying that he did not approach the Court due to lockdown imposed in lieu of the COVID-19 Pandemic and that he

was giving representations to the National Commission for Scheduled Tribes, which was given in August, 2019 and to the Lok Sabha Secretariat. No reason is forthcoming, that stopped the Appellant from approaching this Court within a reasonable period of time. Merely seeking information under the RTI Act or filing representations cannot satisfactorily answer the unreasonable delay of more than four years in approaching the Court.

11. It is settled, that law comes to the rescue of the vigilant and not the indolent. It is also not mentioned in the writ petition that the Appellant was infected with the COVID-19 virus or that the COVID-19 Pandemic had affected him to such a great extent that he could not approach the Court. Merely stating that due to the circumstances prevailing as a result of the COVID-19 Pandemic, he did not pursue his case does not impress this Court to entertain the petition after a period of four years.

12. In any event, the period of validity prescribed for any select panel is in order to give finality to the selection process and a person cannot claim right after a considerable period of time has passed after the prescribed period. There is no infirmity in the finding of the learned Single Judge that a person cannot be permitted to re-open the selection process that had concluded four years prior to the person approaching the Court.

13. The LPA is dismissed, along with pending application(s), if any.

**SATISH CHANDRA SHARMA, C.J.**

**SUBRAMONIUM PRASAD, J**

**FEBRUARY 08, 2023**

*hsk*