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

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**Date of Decision: 26.04.2023**

% LPA 383/2023

DR. B. SUKUMAR

..... Appellant

Through: Mr. Aly Mirza, Advocate.

versus

INDIRA GANDHI NATIONAL OPEN UNIVERSITY & ORS.

..... Respondent

Through: Mr. Ajay Digpaul, CGSC with Mr.  
Kamal Digpaul and Ms. Swati  
Kwatra, Advocates for UOI.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

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

**SATISH CHANDRA SHARMA, C.J. (ORAL)**

1. The present LPA arises out of an order dated 24.02.2023 passed by the learned Single Judge in W.P.(C.) No. 2394/2023. The same has been dismissed by the learned Single Judge.
2. The undisputed facts of the case reveal that the Petitioner was appointed on 30.09.1996 as Assistant Regional Director, Indira Gandhi National Open University (IGNOU). He was holding M.Sc, Ph.D. at the relevant point of time and he was promoted later on to the post of Assistant Regional Director (Senior Scale) under the Career Advancement Scheme (CAS).
3. The Petitioner contended before the learned Single Judge that as per

the CAS issued by the University Grants Commission, and also keeping in view the norms laid down by IGNOU, he became eligible for promotion to the post of Deputy Director w.e.f. 30.09.2001 i.e. on completion of 5 years of service as Assistant Regional Director (Senior Scale).

4. The Petitioner also brought on record a circular dated 06.11.2001 and the ordinance framed by the University for CAS under Statute 17 (4) of the Statutes of the University in respect of upgradation.

5. The Petitioner submitted his candidature for grant of upgradation on 08.10.2001. He was interviewed by the Selection Committee on 05.06.2002, however, he was not found fit for grant of upgradation. The Petitioner, thereafter, in the subsequent years again applied for grant of upgradation. He was again interviewed on 23.12.2003 and 01.07.2005, however, he was not granted any upgradation/ promotion to the post of Director.

6. The Petitioner, later on, was promoted as Additional Director/ Senior Regional Director as per 7<sup>th</sup> Pay Commission on 30.05.2022 w.e.f. 23.07.2011 and it was only in the year 2023 that he preferred a writ petition praying for the following reliefs:

*“i) issue a writ of Mandamus or any other appropriate Writ, direction or order, directing the respondents to grant promotion to the petitioner to the higher cadre of Deputy Director in IGNOU with effect from 30/09/2001, the date on which he became eligible and entitled to the promotion, and to pay all resultant consequential service benefits;*

*ii) issue a declaration that the petitioner is entitled to be promoted to the cadre of Deputy Director in IGNOU with effect*

*from 30/09/2001, the date on which he became eligible, and entitled to all consequential service benefits, including seniority, enhanced scale of pay, subsequent timely promotions, back wages and arrears with interest;”*

7. The learned Single Judge has dismissed the writ petition on the ground of delay and laches as the Petitioner woke up from a deep slumber after 13 years.

8. The operative paragraphs of the order passed by the learned Single Judge, as contained in paragraphs 13 to 17 read as under:

*13. This Court finds merit in the objection of the Respondents that the writ petition is barred by delay and laches, which is a time honoured and enduring principle and must be applied at the threshold by the Courts to ensure that stale claims are not entertained. Issue of delay and laches becomes pronounced when the relief sought by a Petitioner pertains to grant of seniority and/or promotion. It needs no reiteration that if the reliefs sought by the Petitioner, as aforementioned, are granted, the consequential effect would be his promotion to the post of Deputy Director w.e.f. 30.09.2001 and this would lead to the inevitable result of adversely affecting the seniority of other employees in IGNOU, who were promoted to the said post when the Petitioner was unsuccessful even through the subsequent selections, thereby unsettling a seniority which has remained settled for over two decades. Grant of such a relief, assuming the Petitioner succeeds in the writ petition, would be in the teeth of the binding dictum of the Supreme Court that long settled seniority must not be unsettled. The maxim Vigilantibus Non Dormientibus Jura Subveniunt clearly applies in the present case i.e. law assists only those who are awake and vigilant and diligently pursue their rights and not those who sleep over the rights.*

14. In this context, I may allude to the judgment of the Supreme Court in *B.S. Bajwa v. State of Punjab*, (1998) 2 SCC 523, where it was held that in service matters, question of seniority should not be reopened after lapse of a reasonable period as this results in disturbing settled positions, which is not justified. In *P.S. Sadasivaswamy v. State of Tamil Nadu*, (1975) 1 SCC 152, the Supreme Court held that a petition filed after 14 years, challenging promotion of another employee should not be entertained and if a person has a grievance in this regard, he must approach the Court of law, at the earliest opportunity. In *Ramchandra Shankar, Deodhar and Others v. State of Maharashtra and Others*, (1974) 1 SCC 317, the Constitution Bench of the Supreme Court held that any claim for seniority or promotion at a belated stage should be rejected as it seeks to disturb vested rights of other persons regarding seniority, rank and promotion, which have accrued to them during the intervening period. 15. It would be profitable to refer to a recent judgment of the Division Bench of this Court in *Ramsharan v. Chairman Indian Oil Corporation Ltd.*, 2022 SCC OnLine Del 3982, wherein the Court has held as follows:-

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].*

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*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.”*

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10. 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.

11. 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].”

16. The last plank of the argument of the Petitioner is that if he is promoted, he would be entitled to highersalary and

*emoluments and the relief claimed in the writ petition is essentially one of pay and allowances, which is a continuing cause of action. This contention, in my view, only deserves to be rejected. Grant of higher pay scale and other emoluments is only a consequential benefit, if the Petitioner was to succeed in the substantive relief of promotion to the post of Deputy Director and therefore, it is this hurdle which the Petitioner is required to cross first, which he has failed to do. It bears repetition to state that the relief claimed by the Petitioner for grant of promotion is barred by delay and laches and thus, the writ petition cannot be entertained only because the consequential relief of pay and allowances may be a continuous cause of action. The judgment in M.R. Gupta (supra) is thus wholly inapplicable to the present case. Albeit subtly, it was also urged that Petitioner had been representing in the hope of getting favourable response from the Respondents and therefore, he did not approach the Court earlier. Making repeated representations and waiting for their disposal for over 2 decades can hardly be a justification to seek condonation of delay, more particularly, when the claim pertains to promotion and seniority, retrospectively from the year 2001. It is a settled law that representations do not extend or condone the limitation period. [Ref. Surjeet Singh Sahni v. State of U.P. & Ors., 2022 SCC Online SC 249 and State of Tripura and Others v. Arabinda Chakraborty and Others, (2014) 6 SCC 460].*

*17. For all the aforesaid reasons, this Court cannot entertain the present petition, which is barred by doctrine of delay and laches and the same is accordingly dismissed.*

9. Heard learned counsel for the parties at length and carefully gone through the documents on record. It is an undisputed fact that the Appellant was appointed in the year 1992 and became eligible to the post of Deputy Director w.e.f. 30.09.2001 keeping in view the circular dated 06.11.2001 and the ordinance governing the field. The Petitioner did apply for promotion/ upgradation on 08.10.2001. He was considered by the Selection

Committee on 05.06.2002 and 23.12.2003 and lastly on 01.07.2005. The Petitioner was unsuccessful before the Selection Committee and for 13 long years the Petitioner did nothing in the matter except for submitting representations as stated in the writ petition. For 13 long years, the Petitioner did not file any writ petition and it was only when he was promoted to the post of Additional Director/ Senior Regional Director on 30.05.2022 w.e.f. 23.07.2011, he filed a writ petition.

10. In the considered opinion of this Court, repeated representations do not bring a matter within limitation. The learned Single Judge was justified in dismissing the writ petition. (see: ***B.S. Bajwa v. State of Punjab***, (1998) 2 SCC 523, ***P.S. Sadasivaswamy v. State of Tamil Nadu***, (1975) 1 SCC 152, ***Ramchandra Shankar, Deodhar and Others v. State of Maharashtra and Others***, (1974) 1 SCC 317, ***Ramsharan v. Chairman Indian Oil Corporation Ltd.***, 2022 SCC OnLine Del 3982)

11. The issue of delay and laches has been considered by this Court also in the case of ***Vikas Jain v. Union of India***, LPA 300/2023, decided on 17.04.2023. This Court in the case of ***Vikas Jain*** (Supra) in paragraphs 7 to 12 has held as under:

7. *The Hon'ble Supreme Court in the case of **Basawaraj and Another Vs. Special Land Acquisition Officer**, (2013) 14 SCC 81 has dealt with the issue of condonation of delay. It was a case under the Land Acquisition Act, 1894 and the Appellant land owner preferred an Appeal before the High Court after a delay of about five and a half years for enhancement of compensation. The Hon'ble Supreme Court in Paragraph Nos. 12 to 16 has held as under:*

*“12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.*

*13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 28, p. 266:*

*“605. Policy of the Limitation Acts.—  
The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence.”*

*An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches. (See Popat and Kotecha Property v. SBI Staff Assn. [(2005) 7 SCC 510] , Rajender Singh v. Santa Singh [(1973) 2 SCC 705 : AIR 1973 SC 2537] and Pundlik Jalam Patil v. Jalgaon Medium Project [(2008) 17 SCC 448 : (2009) 5 SCC (Civ) 907] .)*

*14. In P. Ramachandra Rao v. State of Karnataka [(2002) 4 SCC 578 : 2002 SCC (Cri) 830 : AIR 2002 SC 1856] this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in Abdul Rehman Antulay v. R.S. Nayak [(1992) 1 SCC 225 : 1992 SCC (Cri) 93 : AIR 1992 SC 1701] .*

*15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a*

*litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.*

*16. In view of above, no interference is required with the impugned judgment and order [Basawaraj v. Land Acquisition Officer, MFA No. 10766 of 2007, decided on 10-6-2011 (KAR)] of the High Court. The appeals lack merit and are, accordingly, dismissed.”*

*8. The Hon’ble Supreme Court had dismissed the Appeal preferred against the judgment of the High Court as no sufficient cause was explained in the matter of delay and laches.*

*9. The Hon’ble Supreme Court again in the matter of condonation of delay in the case of University of Delhi Vs. Union of India and Others, (2020) 13 SCC 745 while dismissing the Civil Appeal on the ground of delay and laches in Paragraphs 19 to 24 and 31 to 32 has held as under:*

*“19. Though we have exhaustively referred to the pleadings and the contentions of the parties, including contentions put forth on merits, the same is only for completeness and to put the matter in perspective before considering the issue relating to delay and laches. In the instant case, considering that the Division Bench [University of Delhi v. Union of India, 2018 SCC OnLine Del 12085] of the High Court has dismissed the LPA on the ground of delay of 916 days, that aspect of the matter would require consideration at the outset and the facts on merits are noted to the limited extent to find out whether in that background the public interest would suffer.*

20. *The learned Senior Counsel for the appellant in order to impress upon this Court the principle relating to consideration of “sufficient cause” for condonation of delay and the factors that are required to be kept in view, has relied on the decision in LAO v. Katiji [LAO v. Katiji, (1987) 2 SCC 107] wherein it is held as hereunder : (SCC pp. 108-09, para 3)*

*“3. The legislature has conferred the power to condone delay by enacting Section 5 [ Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.] of the Limitation Act, 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on “merits”. The expression “sufficient cause” employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice—that being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other courts in the hierarchy. And such a*

*liberal approach is adopted on principle as it is realised that:*

- 1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.*
- 2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.*
- 3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.*
- 4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.*
- 5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.*
- 6. It must be grasped that judiciary is respected not on account of its power*

*to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so.*

*Making a justice-oriented approach from this perspective, there was sufficient cause for condoning the delay in the institution of the appeal. The fact that it was the “State” which was seeking condonation and not a private party was altogether irrelevant. The doctrine of equality before law demands that all litigants, including the State as a litigant, are accorded the same treatment and the law is administered in an even-handed manner. There is no warrant for according a step-motherly treatment when the “State” is the applicant praying for condonation of delay. In fact experience shows that on account of an impersonal machinery (no one in charge of the matter is directly hit or hurt by the judgment sought to be subjected to appeal) and the inherited bureaucratic methodology imbued with the note-making, file-pushing and passing-on-the-buck ethos, delay on its part is less difficult to understand though more difficult to approve. In any event, the State which represents the collective cause of the community, does not deserve a litigant-nongrata status. The courts therefore have to be informed with the spirit and philosophy of the provision in the course of the interpretation of*

*the expression “sufficient cause”. So also the same approach has to be evidenced in its application to matters at hand with the end in view to do even-handed justice on merits in preference to the approach which scuttles a decision on merits. Turning to the facts of the matter giving rise to the present appeal, we are satisfied that sufficient cause exists for the delay. The order of the High Court dismissing the appeal before it as time-barred, is therefore, set aside. Delay is condoned. And the matter is remitted to the High Court. The High Court will now dispose of the appeal on merits after affording reasonable opportunity of hearing to both the sides.”(emphasis in original)*

21. Further the decision in *Dehri Rohtas Light Railway Co. Ltd. v. District Board, Bhojpur* [*Dehri Rohtas Light Railway Co. Ltd. v. District Board, Bhojpur*, (1992) 2 SCC 598] is relied upon, wherein this Court has indicated the real test to determine the delay is that the petitioner should come to Court before a parallel right is created and that the lapse of time is not attributable to any laches or negligence.

22. The learned Senior Counsel for Respondent 13, on the other hand, has relied upon the decision in *Postmaster General v. Living Media (India) Ltd.* [*Postmaster General v. Living Media (India) Ltd.*, (2012) 3 SCC 563 : (2012) 2 SCC (Civ) 327 : (2012) 2 SCC (Cri) 580 : (2012) 1 SCC (L&S) 649] wherein it is held as hereunder : (SCC p. 574, paras 28-29)

*“28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.*

*29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light*

*and should not be swirled for the benefit of a few.”*

*23. From a consideration of the view taken by this Court through the decisions cited supra the position is clear that, by and large, a liberal approach is to be taken in the matter of condonation of delay. The consideration for condonation of delay would not depend on the status of the party, namely, the Government or the public bodies so as to apply a different yardstick but the ultimate consideration should be to render even-handed justice to the parties. Even in such case the condonation of long delay should not be automatic since the accrued right or the adverse consequence to the opposite party is also to be kept in perspective. In that background while considering condonation of delay, the routine explanation would not be enough but it should be in the nature of indicating “sufficient cause” to justify the delay which will depend on the backdrop of each case and will have to be weighed carefully by the courts based on the fact situation. In Katiji [LAO v. Katiji, (1987) 2 SCC 107] the entire conspectus relating to condonation of delay has been kept in focus. However, what cannot also be lost sight of is that the consideration therein was in the background of dismissal of the application seeking condonation of delay in a case where there was delay of four days pitted against the consideration that was required to be made on merits regarding the upward revision of compensation amounting to 800%.*

*24. As against the same, the delay in the instant facts in filing the LPA is 916 days and as such the consideration to condone can be made only if there is reasonable explanation and the condonation cannot be merely because the appellant is public*

*body. The entire explanation noticed above, depicts the casual approach unmindful of the law of limitation despite being aware of the position of law. That apart when there is such a long delay and there is no proper explanation, laches would also come into play while noticing as to the manner in which a party has proceeded before filing an appeal. In addition in the instant facts not only the delay and laches in filing the appeal is contended on behalf of the respondents seeking dismissal of the instant appeal but it is also contended that there was delay and laches in filing the writ petition itself at the first instance from which the present appeal had arisen. In that view, it would be necessary for us to advert to those aspects of the matter and notice the nature of consideration made in the writ petition as well as the LPA to arrive at a conclusion as to whether the High Court was justified.*

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*31. In the matter of condonation of delay and laches, the well-accepted position is also that the accrued right of the opposite party cannot be lightly dealt with. In that regard, rather than taking note of the hardship that would be caused to Respondent 13 as contended by the learned Senior Counsel, what is necessary to be taken note of is the manner in which Respondent 11, DMRC has proceeded in the matter. Respondent 11, DMRC is engaged in providing the public transport and for the said purpose the Government through policy decision has granted approval to generate resources through property development and in that regard the development as earlier indicated, is taken up. Pursuant thereto Respondent 11 has received a sum of Rs 218.20 crores from Respondent 13 as far back as in the year 2008. The*

*said amount as indicated is used for its projects providing metro rail service to the commuting public. In such circumstance, if at this stage the inordinate delay is condoned unmindful of the lackadaisical manner in which the appellant has proceeded in the matter, it would also be contrary to public interest.*

*32. Therefore, taking into consideration all these aspects of the matter, we are of the opinion that not only the learned Single Judge was justified in holding that the writ petition inter alia is hit by delay and laches but the decision of the Division Bench in dismissing the LPA on the ground of delay of 916 days is also justified and the orders do not call for interference.”*

*10. In light of the aforesaid judgment, as there was an inordinate delay of about 20 years in approaching the Court, the Learned Single Judge was justified in holding that the Petition suffers from delay and laches.*

*11. A similar view has been expressed by the Hon'ble Supreme Court in the judgment delivered in the case of **Union of India and Others Vs. N. Murugesan and Others**, (2022) 2 SCC 25. Paragraph Nos. 21 to 23 and 40 of the said judgment read as under:*

*“21. The word “laches” is derived from the French language meaning “remissness and slackness”. It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.*

*22. Two essential factors to be seen are the length of the delay and the nature of acts done during the*

*interval. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy.*

*23. A defence of laches can only be allowed when there is no statutory bar. The question as to whether there exists a clear case of laches on the part of a person seeking a remedy is one of fact and so also that of prejudice. The said principle may not have any application when the existence of fraud is pleaded and proved by the other side. To determine the difference between the concept of laches and acquiescence is that, in a case involving mere laches, the principle of estoppel would apply to all the defences that are available to a party. Therefore, a defendant can succeed on the various grounds raised by the plaintiff, while an issue concerned alone would be amenable to acquiescence.*

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*40. We find, much water has already flown under the bridge. The private respondent has already been appointed in 2016 after following the due procedure and continues to date. The respondent is an ex-employee of the first appellant Society and, having put in 23 years of service, knows its functioning very well. Thus, in our considered view the order passed by the Division Bench [N. Murugesan v. Union of India, 2019 SCC OnLine*

*Kar 514] cannot be sustained in the eye of the law.”*

12. *The Delhi High Court in the case of **Mange Ram Vs. Delhi Development Authority**, 2010:DHC:4675-DB has again considered the issue of delay and laches. Paragraph Nos. 9 to 21 of the said judgment read as under:*

*“9. To appreciate the rivalised submissions raised at the bar, we have carefully scrutinised the material brought on record and the order passed by the learned Single Judge. On a careful scrutiny of the order passed by the learned Single Judge, it is manifest that there was acquisition of the land in question belonging to the father of the appellant in the year 1958. There was a recommendation, as set forth, in the year 1967. A contention was raised before the learned Single Judge that the father of the appellant had never received the recommendation letter. The inference, thus, would arise, when the father of the appellant did not receive the letter of recommendation, and his life span got extinguished on 13th July, 1986, he had accepted the said position from 1958 to 1986, that means for a span of 28 years. Even if we otherwise assume that the appellant’s father received the letter of recommendation sometime in the year 1967, as pleaded at some places, then also he did not do anything till his death. After the death of his father, as is evincible, the appellant did nothing in the matter except making representations as claimed, and eventually approached this Court in the year 2006, that is, after expiration of 20 years. If the factum of delay is construed in a proper perspective, an effort has been made to establish a right and get the relief after lapse of almost 50 years.*

**10. In *Chandra Bose Vs. Union of India & Ors.*, 2003 (107) DLT 604, this Court has held as follows:-**

*“13. In the present case, there is initially a delay from 1961 to 1986 of about 25 years in making the application. No reasons have been disclosed for the same. Similarly there is a further delay from the rejection of the application on 10.06.1988 to filing of the writ petition in 1999 of 11 years. This delay is also unexplained. The only averment made is that the petitioner was unaware of the policy. This can hardly be a ground made out for the condensation of delay in either of the two situations.*

*14. It is not as if in all cases of delay the application must be rejected. It is always open to an applicant to explain the delay and if the said delay is satisfactorily explained, it will not preclude the case of the petitioner from being considered for allotment. In fact this view has been taken by this Court in C.W.P. No. 4834/1999 Smt. Vidyawati Vs. DDA & Another decided on 1.9.2003. However, in the present case there is no valid reason given for the delay in making the application.*

**11. In *Smt. Sundari Bala Vs. Lt. Governor & Ors.*, 86 (2000) DLT 505, it has been held as under :-**

*“4. Before appreciating the rival contentions of the parties it would be necessary to put on record certain admitted*

*facts in the present writ petition. The land of the petitioner measuring 9 bids was situated in Village Kilokari was acquired by the respondent pursuant to which an award was passed on 16.5.1961. The respondent adopted a scheme in 1961. Under clause 8 of the said scheme anyone whose land has been acquired as a result of the notification mentioned in clause 8 of the scheme was entitled to apply for allotment of a plot. After the aforesaid acquisition the construction of the petitioner standing on the acquired land was also demolish by the respondent sometime in March, 1969 and that she received the compensation sometime in April, 1969. The application for allotment of alternative land in lieu of acquired land was filed by the petitioner in the year 1982. Public notice was also issued by the respondents in which applications from persons whose lands were acquired between the period from 1.1.1961 and 15.11.1963 were called for consideration of allotment of alternative land. It was made clear in the said notification that Delhi Administration would not take any responsibility for allotment of alternative plot of land if applications in the aforesaid regard were not received on or before 15.12.1963."*

*6. In the present case the application of the petitioner was not rejected on the ground that she is not entitled to be considered for allotment of an alternative plot in lieu of her acquired land. The ground for rejection of her application was that her case was time barred as she was to submit her application before 15.12.1963 whereas she submitted an*

*application in 1982, for the land acquired by award dated 20.10.1961.*

*Thus there was no Explanation at all worth the name for the delay in filing the application. therefore, there is was inordinate delay and laches in petitioner approaching the Competent Authority for allotment of the alternative plot in lieu of her acquired land. In this connection reference may be made to a Division Bench decision of this Court in Jaswant Kaur (Supra) wherein this court dismissed a similar petition on the ground of gross delay and laches. In the said case the petitioner claimed to have made an application for allotment of an alternative plot of land on 17.4.1965, but the respondent DDA denied having received any such application. The writ petition was filed on the basis of the impugned decision communicated by letter dated 3.12.1990 which was taken on the application of the petitioner dated 19.7.1989, which was held to be highly belated. In my considered opinion the facts of the said case are similar to the case in hand and therefore, the ratio of the aforesaid decision is squarely applicable to the facts of the present case.*

**7. In *Star Wire (India) Ltd. Vs . State of Haryana, (1996) 11 SCC 698* the Supreme Court after referring to the ratio laid down in various earlier decisions of the Supreme Court held that laches close the gates of the courts for a person who approaches the court belatedly. While coming to the aforesaid conclusion the Supreme Court relied upon an earlier decision of the Apex**

*Court in Municipal Corporation of Greater Bombay Vs . Industrial Development & Investment Co. (P) Ltd., AIR 1997 SC 482. In State of Maharashtra Vs. Digambar, AIR 1995 SC 1991, it was held by the Supreme Court that when the writ petitioner was guilty of laches or undue delay in approaching the High Court, the principle of laches or undue delay disentitled the writ petitioner for discretionary relief under Article 226. Although the aforesaid two decisions were rendered in the context of delay and laches of the petitioner in approaching the High Court under Article 226, I do not see any reason why similar consideration should not be made applicable to a matter where a time limit was fixed for approaching the authority and doing the needful and the same was done after expiry of period of 13 years.”*

**12. In *Sunder Singh (since deceased) Through his Legal Heir* (supra), this Court has opined thus:**

*“25. We are of the view that where the petitioner is so unconcerned or unwary of his case pending for compensation, he was not entitled to alternative plot of land as the scheme is introduced by the government for the benefit of those people who are in need of the land and if there is actual need existing of the petitioners, he would not have waited for such a long time to make an application for allotment and should have been vigilant.*

xxxx xxxx xxxx xxxx

*27. No doubt, the scheme of allotment of alternative plots in lieu of acquired land*

*under "Large Scale Acquisition Development and Disposal of Land In Delhi" announced by Govt. of India, Ministry of Home Affairs vide their letter No. 37/16/60-Delhi(i) dated 2nd May, 1961 is in force with effect from 2nd May, 1961 but it is not an open ended scheme where a person whose land has been acquired vide Award passed in 1962 can apply for alternative plots any time he wishes. Though in the scheme the date for application for allotment of alternative plot was not mentioned but Delhi Administration has issued public notices from time to time where it was specifically made clear that persons whose lands were acquired between the period from 1st January, 1961 and 15th November, 1963 has to apply for alternative plot before 15th December, 1963. But in the present case Notification under Section 4 was issued on 13th November, 1958 and the Award was passed on 14th March, 1962."*

*13. At this juncture, we may advert to the decisions referred to by the learned counsel for the appellant. In **S.B. Kishore** (supra), the Apex Court directed that the owner of the land was entitled to allotment of a plot of land under the scheme though he had approached the High Court after 19 years. Be it noted, in paragraph 6 of the said decision, their Lordships opined thus :-*

*"6. This order is confined to the facts of the present case and shall not be taken as a precedent. No claim shall be entertained in regard to preferences."*

*14. In view of the aforesaid, the said decision cannot be treated as a precedent for absolution of the principle of delay and laches.*

**15. In *M/s. Dehri Rohtas Light Railway Company Limited* (supra), the Apex Court distinguished the decision rendered in *Tilokchand and Motichand and Ors. v. H.B. Munshi and Anr.*, AIR 1970 SC 898 and held as under :-**

*“13. The rule which says that the Court may not inquire into belated and stale claim is not a rule of law but a rule of practice based on sound and proper exercise of discretion. Each case must depend upon its own facts. It will all depend on what the breach of the fundamental right and the remedy claimed are and how the delay arose. The principle on which the relief to the party on the grounds of laches or delay is denied is that the rights which have accrued to others by reason of the delay in filing the petition should not be allowed to be disturbed unless there is reasonable explanation for the delay. The real test to determine delay in such cases is that the petitioner should come to the writ court before a parallel right is created and that the lapse of time is not attributable to any laches or negligence. The test is not to physical running of time. Where the circumstances justifying the conduct exists, the illegality which is manifest cannot be sustained on the sole ground of laches. The decision in *Trilok Chand* (supra) relied on is distinguishable on the facts of the present case. The levy if based on the net profits of the railway undertaking was beyond the authority and the illegal nature of the same has been questioned though belatedly in the pending proceedings after the pronouncement of the High Court in the matter relating to the subsequent years. That being the case, the claim of the appellant*

*cannot be turned down on the sole ground of delay. We are of the opinion that the High Court was wrong in dismissing the writ petition in limine and refusing to grant the relief sought for. We however agree that the suit has been rightly dismissed.”*

*16. On a perusal of the aforesaid decision, it is perceptible that the decision is distinguishable on the facts inasmuch as in that case, circumstances did not exist justifying the conduct and illegality was so manifest that it could not be sustained on the sole ground of laches.*

*17. In **K. Thimmappa & Ors.** (supra), the Apex Court, while dealing with the doctrine of delay and laches, in paragraph 9, has held as under:-*

*“9. On consideration of the aforesaid legal position, though, we are inclined to agree with Mr. P.P.Rao that these cases should not be thrown out on the ground of laches alone, inasmuch as the placement made on 1.10.1979 was assailed in the year 1988 at the earliest and 1998 at the latest, yet the same may not be brushed aside, particularly, when we have not been able to find out any infraction of any Fundamental Right of these petitioners, guaranteed under the Constitution.*

*18. Be it noted, in the said case, the question that arose for consideration was totally different inasmuch as the matter was related to confirmation of the State Bank employees and the fact whether classification or the determination invited the frown of Article 14 of the Constitution of India. In view of the aforesaid factual basis, we are disposed to think that the said decision is also distinguishable.*

19. Having adverted to the citations which have been placed before us, we are inclined to think that the decisions rendered in **Sunder Singh (since deceased) Thr. his Legal Heir** (*supra*), **Chandra Bose** (*supra*) and **Smt. Sundari Bala** (*supra*) and **Star Wire (India) Ltd.** (*supra*) are applicable to the case at hand.

20. In view of our aforesaid analysis, we have no doubt that the writ petition has rightly been dismissed by the learned Single Judge as we perceive that the factum of delay relates back to 1958. We can only say that the appellant possibility harboured an ambition to avail the benefit which his father, during his lifetime, could not achieve. His claim for the right can possibly be in the realm of speculation but it cannot be in the sphere of reality. To elaborate, he cannot get the stale claim alive after five decades.

21. In the result, the appeal and application, being devoid of merit, are dismissed. There shall be no order as to costs in this appeal. However, regard being had to the anxiety nurtured by the appellant, the costs imposed by the learned Single Judge is made easy. ”

12. In light of the aforesaid, this Court is of the opinion that the learned Single Judge was justified in dismissing the writ petition on the ground of delay and laches and this Court also does not find any reason to interfere with the impugned order.

13. Dismissed.

**SATISH CHANDRA SHARMA, CJ**

**SUBRAMONIUM PRASAD, J.**

**APRIL 26, 2023**

*N.Khanna*

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Signature Not Verified

Digitally Signed  
By: BHUPINDER SINGH  
ROHELLA  
Signing Date: 09.05.2023  
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