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

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Judgment delivered on: 01.08.2023

+ **W.P.(C) 10068/2023 & CM APPL. 38734/2023 & CM APPL. 38735/2023**

BRIJESH KUMAR

..... Petitioner

versus

UNION OF INDIA AND OTHERS

..... Respondents

Advocates who appeared in this case:

For the Petitioners: Mr. Alakh Alok Srivastava and Mr. Chandan Kumar Singh,
Advocates

For the Respondent: Mr. Umesh K. Burnwal, Senior Panel Counsel with Ms.
Archana Kumari (GP)

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks a direction to the respondents to grant promotion to the petitioner to the post of Sub-Inspector (GD) along with all consequential benefits with effect from 30.04.2019 i.e., date of announcement of revised result of the Limited Departmental Competitive Examinations (SI/GD-2016).



2. The respondent had issued an advertisement inviting applications from serving and eligible Constables and Head Constables for selection to the post of Sub Inspector (GD) to limited department competitive examination 2016.

3. Petitioner appeared in the examination, the result of which was declared on 08.02.2017 in which the petitioner was declared as unsuccessful. Some of the unsuccessful candidates challenged the result by approaching this Court. The respondent/CRPF acknowledged that there were some errors and mistakes in the examination procedure and consequently the mistakes were rectified and result was revised and revised result was declared on 30.04.2019 wherein once again the petitioner was shown as 'Not qualified'.

4. As per the petitioner, one Constable/GD Kuldeep also belonging to the General/OBC category had earlier been declared successful was after revision of result was declared as unsuccessful.

5. Said Kuldeep had secured 130 marks and petitioner has secured 134 marks. The cut-off for the General/OBC category was 138 marks in the revised result. Since petitioner had 134 marks i.e., less than the cut-off 138, petitioner was not selected.

6. 20 candidates who had earlier been declared successful and after revision of the result, declared unsuccessful filed a petition before this Court being *W.P.(C) No. 4910/2019*, titled as *Chaman Giri*



& Ors. Vs. Union of India & Ors.

7. By an interim order dated 13.05.2019, this Court had directed that all those who had been declared successful in the pre-revised result and had been promoted to the post of Sub Inspector/GD shall not be reverted back.

8. Consequently, said Kuldeep, who had been promoted earlier prior to the revision of the result, continued on the post of Sub Inspector/GD pursuant to interim order passed by this Court. Subsequently, said writ petition was dismissed by this Court on 14.12.2020.

9. Petitioners therein approached the Supreme Court. In the Special Leave Petition filed by said Kuldeep i.e. SLP (C) No. 884/2021, on 13.01.2021, the Supreme Court passed an interim order directing maintenance of status quo. Resultantly, all the said candidates continued on the post of Sub Inspector/GD pursuant to the interim order passed by the Supreme Court. We are informed that the Special Leave Petition is still pending.

10. Petitioner had filed the subject petition contending that on 30.12.2022 a promotion order has been issued promoting said Kuldeep to the rank of Inspector/GD. Learned counsel for the petitioner submits that this promotion order gives rise to a fresh case of action to the petitioner to file the present petition.



11. We may notice that the petitioner had participated in an examination held in 2016. The initial result was declared on 08.02.2017 when petitioner was declared unsuccessful. Thereafter, the result was revised and final result was declared on 30.04.2019 where again the petitioner was declared unsuccessful having secured less than the cut-off marks for his category.

12. Petitioner never raised a grievance with regard to his rejection. Subject petition has been filed after a lapse of over four years impugning a result which was declared on 30.04.2019.

13. The petition filed by the petitioner is highly belated and suffers from delay and laches. Normally for entertaining a writ petition, there is no limitation prescribed, however, in the facts and circumstances of the case, where the petitioner approaches the Court after a lapse of several years and having let the claim become stale, this Court would decline to entertain a petition and reject the same on the ground of delay and laches.

14. In *Union of India and Ors. vs. Tarsem Singh*, (2008) 8 SCC 652, the Supreme Court summarized the settled principles on this matter, holding that normally, a belated service-related claim would be rejected on grounds of delay or laches, unless it was relating to a continuing wrong. However, the court carved out an exception within an exception and held that where such a claim is against an order or administrative decision which related to or affected several others



also, and if the re-opening of the issue would affect the settled rights of third parties, then the claim would not be entertained.

15. Further even on merits petitioner has also not been able to show that petitioner should have been granted more marks than the cut-off marks. Petitioner had earlier secured 120 marks in the first round and after rectification he secured 134 marks whereas the cut-off in his category was 138 marks. On that count also, petitioner has not been able to make out a case.

16. The only ground mentioned by the petitioner is that one Kuldeep who had secured 130 marks in the revised result has been declared to be 'qualified'.

17. Case of the petitioner cannot be compared with that of Kuldeep for the reasons that Kuldeep in the first round had been declared as successful and had been promoted to the rank of Sub Inspector/GD and it is only after revision of result that he was declared unsuccessful and sought to be reverted back and, in any event, petition was filed by Kuldeep is pending before the Supreme Court and he is continuing in terms of an interim order passed by the Supreme Court.

18. Even if assuming that said Kuldeep had been incorrectly granted a promotion, petitioner cannot seek parity on the principle of negative equality. This Court cannot countenance granting an order is solely on the ground that an alleged incorrect order had been passed in



favour of some other individual.

19. In *Muthukumar and Ors. v. Chairman and Managing Director TANGEDCO and Ors.*, 2022 SCC Online SC 151, the Supreme Court held that the principal of “no negative equality” is axiomatic in this country's lore and that a benefit or advantage conferred on one or a set of people, without legal basis or justification cannot be relied upon as a principle of parity or equality.

20. Furthermore, the mere fact that Kuldeep has been promoted on 30.12.2022 would not give rise to a fresh cause of action for the petitioner to approach this Court as the promotion order dated 30.12.2022 seeks to promote Kuldeep to the next higher rank of Inspector/GD whereas the petitioner seeks promotion to the rank of Sub Inspector/GD.

21. In view of the above, we find no merit in the petition. The petition is consequently dismissed on the ground of delay and laches as also on merits.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

AUGUST 1, 2023

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