



2024:DHC:5719



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

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Date of Decision: 12th July, 2024

+ W.P.(C) 9467/2024

BALVINDER KAUR & ORS.

.....Petitioners

Through: Dr. V.P. Singh, Ms. Yashasvi Singh
and Mr. Bhagwan Singh, Advocates.

versus

UNIVERSITY OF DELHI THROUGH VICE CHANCELLOR
& ORS.

.....Respondents

Through: Mr. Mohinder JS Rupal and Mr.
Hardik Rupal, Advocates for University of Delhi.**CORAM:****HON'BLE MS. JUSTICE JYOTI SINGH****JUDGMENT****JYOTI SINGH, J. (ORAL)**

1. This writ petition has been preferred on behalf of the Petitioners i.e. legal heirs of Dr. Sanjeev Kumar Verma under Article 226 of the Constitution of India, seeking the following reliefs:-

“(a) issue writ/order/direction to the respondents to grant notional promotion to late Dr. Sanjeev Kumar Verma w.e.f. 2010 and also issue directions to the respondents to pay all consequential and compensatory benefits to the petitioners in the interest of justice.

(b) pass any other/further writ/order/relief favour of the petitioners to meet the ends of justice.”

2. As per the factual narrative in the petition, late Dr. Sanjeev Kumar Verma, husband of Petitioner No.1 and father of Petitioners No.2 and 3, was appointed as a permanent Lecturer in Maharshi Valmiki College of



Education ('College') on 19.09.1997. Thereafter, he was promoted as a Lecturer in Senior Scale on 09.02.2004 pursuant to recommendations of a duly constituted Selection Committee. On 12.10.2010, case of Dr. Sanjeev Kumar Verma was considered for promotion to the post of Reader by the Selection Committee but the promotion was not granted for reasons unknown. As per the Petitioners, Principal of the College wrote to the Dean Colleges, University of Delhi on 23.01.2015 and recommended promotion of Dr. Sanjeev Kumar Verma under Merit Promotion Scheme, 1998 ('MPS') followed by reminders dated 16.12.2015 and 29.02.2016 to Assistant Registrar (Colleges). Another letter was sent on 20.10.2016 to the Dean Colleges, University of Delhi recommending for promotion of Dr. Sanjeev Kumar Verma and also apprising him of his severe medical condition, followed by a reminder on 17.02.2017.

3. It is averred that on 25.04.2017, Governing Body's meeting was held at the College but the issue of promotion was not taken up. Unfortunately, Dr. Sanjeev Kumar Verma passed away on 19.11.2018. Petitioners sent a legal notice to the Respondents on 21.09.2020 seeking compensation and damages due to premature death of Petitioner No.1's husband and another notice dated 05.04.2021 for releasing the promotion benefits. Petitioners state that thereafter, Petitioner No.1 sent multiple legal notices to all the Higher Authorities for intervention, the last one being on 03.03.2022.

4. It is averred that the Principal of the College wrote to Petitioner No.1 on 23.06.2022 that the case of promotion of her husband had been placed before the Governing Body and was under consideration. On 08.06.2023, the Principal sent another letter to the Dean Colleges, University of Delhi regarding promotion of Petitioner No.1's husband under MPS.



5. In response to letter dated 08.06.2023, the Dean Colleges, University of Delhi sent a letter dated 26.06.2023 informing that case of Petitioner No.1's husband had been considered and it was found that he was not eligible for promotion to the post of Reader/Reader's Grade as he did not fulfil the requirements of having undergone a Refresher Course as per MPS as provided in Ordinance XVIII and further as per Rules, the applicant must be on the roll and in active service of University/College on the date of consideration by the Selection Committee.

6. Learned counsel for the Petitioners submits that late Dr. Sanjeev Kumar Verma was illegally denied promotion to the post of Reader while he was in service and alive, as he was entitled to the same from 12.10.2010 when his case was considered by the Selection Committee under the MPS. His case was recommended several times by the Principal of the College but was treated in a most callous manner, despite the fact the concerned Authorities were also informed that the medical condition of the Petitioner was deteriorating day-by-day.

7. Mr. Rupal, learned counsel for the Respondents/University of Delhi submits that the writ petition is barred by delay and laches inasmuch as the cause of action if any, arose in 2010 when according to Petitioner No.1, her husband was considered by the Selection Committee but the recommendations were not taken to their logical end. Late Dr. Sanjeev Kumar Verma passed away on 19.11.2018 but during his lifetime, he never took recourse to legal remedies. It may be true that he was suffering from multiple medical ailments, however, he could have approached the Court through a *Pairokar*. It is urged that it is a settled law that delay and laches is a well-recognised Doctrine and Courts ought not to come to the rescue of an



individual, who has slept over his rights and delay and laches become more significant when the relief sought relates to promotion and consequent impact on seniority of other employees, who would have been granted promotion in the meantime and placed at a higher seniority position.

8. Heard learned counsels for the Petitioners and Respondents/ University of Delhi.

9. From the factual narrative in the writ petition it is clear that the grievance ventilated by the Petitioners, who are legal heirs of late Dr. Sanjeev Kumar Verma is that late Dr. Sanjeev Kumar Verma was considered for promotion to the post of Reader in the College by a duly constituted Selection Committee on 12.10.2010 but despite this, he was never granted the promotion legitimately due to him. Reference has been made to multiple letters written by the Principal of the College to various Authorities such as the Dean Colleges, University of Delhi and Assistant Registrar, University of Delhi in this regard. It is undisputed that Dr. Sanjeev Kumar Verma passed away on 19.11.2018 after a prolonged battle with several medical issues. Admittedly, from 2010 to 2018, Dr. Sanjeev Kumar Verma did not take recourse to legal remedies and was banking upon letters written by the Principal of the College. After his death, Petitioner No.1 sent two legal notices to the Respondents on 21.09.2020 and 05.04.2021, respectively. It is not the case of the Petitioners that Dr. Sanjeev Kumar Verma was recommended for promotion by the Selection Committee.

10. In view of the preliminary objection taken on behalf of Respondents with respect to the maintainability of the petition on account of delay and laches, it would be imperative to first examine the preliminary issue. From



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the factual narrative, it is obvious that no steps were taken by Dr. Sanjeev Kumar Verma during his lifetime from 2010 till 2018, knowing fully well that his case was considered by the Selection Committee, but the result was not forthcoming. Even after his untimely death in 2018, Petitioner No. 1 did not approach the Court and only sent legal notices. University rejected the claim of promotion vide order dated 26.06.2023, but even thereafter, this petition was filed with a gap of one year. Therefore, seen holistically, this petition has been filed 14 years after the alleged cause of action having arisen in favour of Petitioner No.1's husband and there is thus merit in the contention of Mr. Rupal that the petition is barred by delay and laches. In *P.S. Sadasivaswamy v. State of Tamil Nadu, (1975) 1 SCC 152*, it was held by the Supreme Court that a petition filed after a lapse of 14 years challenging promotion could not be entertained and if a person is aggrieved by an order promoting a junior over his head, he should approach at least within 6 months or at the most, a year from such promotion. The Supreme Court also observed that while there is no period of limitation for Courts to exercise their power under Article 226 and nor could it be said that there would never be a case where a Court may interfere, but in the ordinary course, it would be a sound and wise exercise of jurisdiction to refuse to exercise the extraordinary powers under Article 226, if the Petitioner does not approach the Court expeditiously for relief and merely stands by, allowing things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The Constitution Bench of the Supreme Court in *Ramachandra Shankar, Deodhar and Others v. State of Maharashtra and Others, (1974) 1 SCC 317*, was seized of the issue of impact of delay in challenging promotion and seniority and held that any



claim for seniority at a belated stage should be rejected inasmuch as it seeks to disturb vested rights of other persons regarding seniority, rank and promotion, which have accrued to them during the intervening period.

11. 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].”

12. *Albeit* subtly, it is sought to be argued by learned counsel for the Petitioners that the powers of the Court under Article 226 of the Constitution of India are wide and extraordinary and the petition can be entertained in the interest of justice. There is and cannot be any dispute that the powers of the High Court under Article 226 of the Constitution of India are extraordinary, but it is equally well-settled that the relief under Article 226 is discretionary and the Supreme Court has, time and again, elucidated that one ground for refusing relief under Article 226 is that the petition is filed after a



considerable delay, for which there is no satisfactory explanation. In this context, I may allude to a passage from the judgment of the Supreme Court in ***Durga Prashad v. Chief Controller of Imports and Exports, (1969) 1 SCC 185***, which is as follows:

“4. Gajendragadkar, C.J., speaking for the Constitution Bench, in *Smt Narayani Devi Khaitan. v. State of Bihar* [CA No. 140 of 1964 ; judgment dated September 22, 1964] observed:

“It is well-settled that under Article 226, the power of the High Court to issue an appropriate writ is discretionary. There can be no doubt that if a citizen moves the High Court under Article 226 and contends that his fundamental rights have been contravened by any executive action, the High Court would naturally like to give relief to him; but even in such a case, if the petitioner has been guilty of laches, and there are other relevant circumstances which indicate that it would be inappropriate for the High Court to exercise its high prerogative jurisdiction in favour of the petitioner, ends of justice may require that the High Court should refuse to issue a writ. There can be little doubt that if it is shown that a party moving the High Court under Article 226 for a writ is, in substance, claiming a relief which under the law of limitation was barred at the time when the writ petition was filed, the High Court would refuse to grant any relief in its writ jurisdiction. No hard and fast rule can be laid down as to when the High Court should refuse to exercise its jurisdiction in favour of a party who moves it after considerable delay and is otherwise guilty of laches. That is a matter which must be left to the discretion of the High Court and like all matters left to the discretion of the Court, in this matter too discretion must be exercised judiciously and reasonably.”

13. Reference may also be made to another judgment in ***Tridip Kumar Dingal and Others v. State of West Bengal and Others, (2009) 1 SCC 768***, more particularly, para 56 thereof, which is as under:

“56. We are unable to uphold the contention. It is no doubt true that there can be no waiver of fundamental right. But while exercising discretionary jurisdiction under Articles 32, 226, 227 or 136 of the Constitution, this Court takes into account certain factors and one of such considerations is delay and laches on the part of the applicant in approaching a writ court. It is well settled that power to issue a writ is discretionary. One of the grounds for refusing reliefs under Article 32 or 226 of the Constitution is that the petitioner is guilty of delay and laches.”

14. It was urged by the learned counsel for the Petitioners that repeated letters were being sent by the Principal of the College and therefore,



Petitioner No.1's husband was under an impression that the case was under consideration. Petitioner No.1 also sent legal notices to take up the cause of promotion of her husband and this justifies the delay in approaching the Court. Making repeated representations and waiting for their disposal for nearly 14 years can hardly be a justification to seek condonation of delay, more particularly, when the claim pertains to promotion, retrospectively from the year 2010, which may also have an impact on the seniority of those who were promoted as Readers in the meantime and for no fault of theirs. 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].

15. In view of the above, this Court finds 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 particularly in matters of promotion and consequential impact on the seniority position of those employees, who in the meantime have received promotion and have moved up the ladder in seniority. While this Court is not inclined to entertain this principle on delay and laches, even otherwise, it is not possible for this Court to grant promotion to the Petitioner No.1's husband for the reason that as one of the conditions of eligibility for promotion to the post of Reader, Petitioner No. 1's husband was required to undergo a Refresher Course as per MPS as mentioned in Ordinance XVIII, which is a categorical stand of the University in the order dated 26.06.2023. Therefore, assuming for the sake of argument, even if the Court was to direct reconsideration of the case of the Dr. Sanjeev Kumar



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Verma for promotion as a Reader, promotion cannot be granted in the absence of a Refresher Course, which naturally cannot be undertaken as Dr. Sanjeev Kumar Verma succumbed to his medical ailments on 19.11.2018.

16. For all the aforesaid reasons, the writ petition is dismissed with no order as to costs.

JYOTI SINGH, J

JULY 12, 2024/shivam/DV