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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 15786/2023

ARVIND KUMAR

..... Petitioner

Through: Mr. Yadunandan Bansal, Mr. Amit
Kumar, Advs.

versus

DELHI SUBORDINATE SERVICES SELECTION BOARD AND
ORS.

..... Respondent

Through: Ms. Avnish Ahlawat, SC, DSSSB
with Ms. Tania Ahlawat, Mr. Nitesh Kumar Singh,
Ms. Laavanya Kaushik, Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

24.01.2024

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1. The present writ petition under Article 226 and 227 of the Constitution of India seeks to assail the order dated 15.09.2023 passed by the learned Central Administrative Tribunal in M.A.77/2023 in OA 64/2023.
2. Vide the impugned order, the learned Tribunal has rejected the petitioner's application seeking condonation of delay in filing the OA. The learned Tribunal held that the petitioner's plea of suffering from family crisis, as a reason for the delay in assailing in the year 2023, a selection process pertaining to an exam held in the year 2007, the final result whereof was declared in 2012, could not be accepted.
3. On 22.01.2024, after this Court had *prima facie* opined that the



learned Tribunal could not be faulted for rejecting the petitioner's challenge to a selection which had been finalized in the year 2012 by way of O.A. 64/2023, learned counsel for the petitioner had prayed for time to cite case law in support of his plea that irrespective of inordinate delay of more than 11 years, the petitioner could still assail his non-selection for which he claims he was duly entitled.

4. Today, learned counsel for the petitioner concedes that there is no case law to support his plea.
5. Even otherwise having perused the impugned order, we are of the view that the learned Tribunal was justified in rejecting the petitioner's challenge. Taking into account the petitioner's claim that a vacancy against which he was entitled to be appointed had been wrongly given to some other candidate, we are of the considered view that grant of any relief to the petitioner at this belated stage would amount to unsettling the position which has existed for more than 11 years and also prejudice the rights of other candidates, who are not before this Court.
6. In this regard, we may also refer to the paras 12 & 13 of the decision in ***U.P. Jal Nigam & Anr. V. Jaswant Singh & Anr.***[(2006) 11 SCC 464], wherein the Apex Court held as under:-

“12. The statement of law has also been summarised in Halsbury's Laws of England, para 911, p. 395 as follows:

“In determining whether there has been such delay as to amount to laches, the chief points to be considered are:

- (i) acquiescence on the claimant's part; and*
- (ii) any change of position that has occurred on the defendant's part.*



Acquiescence in this sense does not mean standing by while the violation of a right is in progress, but assent after the violation has been completed and the claimant has become aware of it. It is unjust to give the claimant a remedy where, by his conduct, he has done that which might fairly be regarded as equivalent to a waiver of it; or where by his conduct and neglect, though not waiving the remedy, he has put the other party in a position in which it would not be reasonable to place him if the remedy were afterwards to be asserted. In such cases lapse of time and delay are most material. Upon these considerations rests the doctrine of laches.”

13. *In view of the statement of law as summarised above, the respondents are guilty since the respondents have acquiesced in accepting the retirement and did not challenge the same in time. If they would have been vigilant enough, they could have filed writ petitions as others did in the matter. Therefore, whenever it appears that the claimants lost time or whiled it away and did not rise to the occasion in time for filing the writ petitions, then in such cases, the court should be very slow in granting the relief to the incumbent. Secondly, it has also to be taken into consideration the question of acquiescence or waiver on the part of the incumbent whether other parties are going to be prejudiced if the relief is granted. In the present case, if the respondents would have challenged their retirement being violative of the provisions of the Act, perhaps the Nigam could have taken appropriate steps to raise funds so as to meet the liability but by not asserting their rights the respondents have allowed time to pass and after a lapse of couple of years, they have filed writ petitions claiming the benefit for two years. That will definitely require the Nigam to raise funds which is going to have serious financial repercussions on the financial management of the Nigam. Why should the court come to the rescue of such persons when they themselves are guilty of waiver and acquiescence?”*



7. In the light of the aforesaid, we have no hesitation in holding that the petitioner is guilty of delay and laches in approaching the Court after more than 11 years from the date when the selection process was finalised. We, therefore, find absolutely no infirmity with the impugned order.
8. The writ petition being meritless is, accordingly, dismissed.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

JANUARY 24, 2024

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