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

+ **W.P.(C) 4146/2008**

**OM PRAKASH SHUKLA**

.....Petitioner

Through: Mr. Sachin Bajpai, Ms. Divya Singh  
and Mr. Anurag Mishra, Advocates.

versus

**THE COMMISSIONER (INFORMATION) GOVT. OF MANIPUR  
& ORS**

.....Respondents

Through: Mr. Pukhrambam Ramesh Kumar,  
Mr. Karun Sharma, Ms. Rajkumari Divyasana and  
Mr. R. Rajaselvan, Advocates.

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**

**30.08.2024**

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1. This writ petition has been filed on behalf of the Petitioner under Article 226 of the Constitution of India, seeking a direction to the Respondents to approve the proceedings of the DPC dated 17.12.1997, wherein according to the Petitioner, his case was recommended for promotion as a Driver with all consequential benefits. Relief is also sought for payment of officiating allowance w.e.f. 16.11.1996 on the ground that Petitioner has been actually working on the post of a Driver from the said date.

2. The facts of the case as emerging from the writ petition are that Petitioner was appointed as a Chowkidar-cum-Peon (Grade-IV) in Manipur Information Centre/Respondent No. 3, ('Centre') on temporary basis under the Directorate of Information and Public Relations, Government of



Manipur. On 03.09.1996, the Director, Information and Public Relation, Government of Manipur wrote to Director of Employment, Lamphelpat, Imphal to sponsor the Petitioner for the post of Driver and Peon for the Centre. Petitioner was a holder of driving license (light vehicle) and possessed essential qualifications required for appointment to the post of Driver as per the Recruitment Rules.

3. It is averred that services of the Petitioner were being utilized as a Driver from 16.11.1996. As per approval from the Government of Manipur, a DPC was convened for the post of Driver on 17.12.1997 in the office of Joint Director, Centre and Petitioner was one of the seven candidates called by the DPC for interview. He was also a candidate sponsored by the department under the initiative of the Director, Information and Public Relations. It is the case of the Petitioner that DPC recommended his name for appointment as a Driver in the Centre on regular basis. The Joint Director of the Centre forwarded the DPC proceedings for appointment of the Petitioner vide letter dated 12.01.1998. Another reminder was sent on 13.09.2000 for approval of the recommendation but since no action was being taken, Petitioner approached this Court.

4. Learned counsel for the Petitioner submits that name of the Petitioner was sponsored for the post of Driver and was subsequently recommended by the DPC convened on 17.12.1997 and to support this plea, attention of the Court is drawn to letter dated 12.01.1998. The argument is that once the name of the Petitioner was considered and recommended by the DPC for promotion, the recommendation should be enforced. The only reason why the DPC Minutes were not forwarded at that stage for approval was because the Resident Commissioner, Government of Manipur, who was Chairman of



the DPC, was on leave and this should not be a reason to deprive the Petitioner of his promotion. It is denied that the writ petition is barred by delay and laches, as alleged by the Respondents in their affidavit. DPC recommendation was pending consideration and there was no reason for the Petitioner to believe that the same will not be approved and thus, he was awaiting the final decision before approaching the Court. In fact, Petitioner was all this while assured that he would be appointed and did not take recourse to legal remedy and also made a representation on 20.03.2008.

5. Learned counsel for the Respondent on the other hand submits that the petition is barred by delay and laches as the cause of action, if any, arose in the year 1997 when the DPC, made a favourable recommendation, according to the Petitioner. There is no explanation for the inordinate delay upto 2008, when this writ petition was filed. Without prejudice to this argument, it is urged that even otherwise Petitioner has no case on merits as the DPC recommendation was not approved by the State Government. While considering the recommendation of the DPC, the State Government, in pursuance of the order dated 03.11.1999, issued by the Finance Department, issued another order dated 06.11.1999 to the effect that there would be complete ban on direct recruitment and therefore, the result of the DPC, if not declared as on date, should be frozen. Thereafter, pursuant to the Cabinet decision taken on 07.03.2001, State Government issued another order dated 19.03.2001 whereby it was *inter alia* declared that results of DPCs which had not been announced by them would be treated as cancelled. Moreover, as per the Recruitment Rules applicable to the post of Driver, the post is to be filled only by direct recruitment and there is no other source of recruitment including promotion and therefore, no direction can be issued to



the Centre to promote the Petitioner.

6. Heard learned counsels for the parties and examined their submissions.

7. The limited grievance raised in the present petition is to enforce the recommendation of the DPC convened on 17.12.1997, wherein Petitioner's case was recommended for promotion to the post of Driver treating him as a departmental candidate. As rightly pointed out by the counsel for the Respondents, the cause of action, if any, had arisen on 17.12.1997 when the DPC recommended the name of the Petitioner, which was never given effect to. Petitioner waited from 1997 till 2008 to make a representation on 20.03.2008 and filed this petition in the same year. There is no explanation worth a mention in the entire writ petition justifying the gross and inordinate delay in filing the present petition. Supreme Court has time and again held that the doctrine of delay and laches is not an abstract doctrine and should not be easily brushed aside by the High Court when a plea of delay is raised by the Respondents and this doctrine applies with greater vigor in matters relating to seniority and promotion. In *P.S. Sadasivaswamy v. State of Tamil Nadu, (1975) 1 SCC 152*, it was observed by the Supreme Court 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. In *Shiba Shankar Mohapatra and Others v. State of Orissa*



*and Others, (2010) 12 SCC 471*, the Supreme Court held that it is a settled law that fence-sitters cannot be allowed to raise a dispute or challenge the validity of an order at a belated stage. No party can claim the relief as a matter of right and one of the grounds for refusing relief could be that the person approached the Court belatedly. Courts exercising public law jurisdiction do not encourage agitation of stale claims unless there is a justified reason to do so. In light of these decisions and the fact that there is no explanation for the gross inordinate delay of over 10 years in approaching the Court, even assuming any cause of action had arisen in favour of the Petitioner in 1997, this writ petition cannot be entertained being barred by delay and laches.

8. Even otherwise, Petitioner has no case on merits. Petitioner predicates his case on the favourable recommendation of the DPC convened on 17.12.1997 and seeks enforcement of the recommendation for promotion. It is Petitioner's own case that he was considered for promotion as a departmental candidate. Pursuant to an order passed by this Court on 03.04.2024, additional affidavit has been filed on behalf of the Respondents. The affidavit is not on record but a copy is handed over in Court during the course of hearing. Advance copy of the affidavit was admittedly served on the Petitioner. Affidavit is taken on record. It is stated in the additional affidavit that as per the Recruitment Rules for the post of 'Driver' notified on 22.04.1964 and applicable in 1997, the source of recruitment was 100% by direct recruitment after an open advertisement and there was no mode of recruitment through promotion. Recruitment Rules placed on record with the affidavit support the plea of the Respondents. Once the Recruitment Rules do not contain any mode of appointment to the post of Driver through



promotion, no order can be passed by the Court directing appointment of the Petitioner in the teeth of the Recruitment Rules. Additionally, it is also brought forth in the affidavit that a Government order was issued on 03.11.1999 freezing the appointments against all existing vacancies and vide another order dated 06.11.1999, the State Government imposed a complete ban on direct recruitment also. In furtherance thereto, by order dated 19.03.2001, it was notified that wherever results of DPC has not been announced so far, the DPCs would be treated as cancelled. This position taken by the Respondents in the additional affidavit is uncontroverted. In light of the above, no relief can be granted to the Petitioner.

9. At this stage, learned counsel for the Petitioner submits that *albeit* it is not prayed in the writ petition, direction be issued to the Respondents to consider the case of the Petitioner for regularization on the post of Driver as the Petitioner has been actually performing the duties of a Driver since 1996 and in support relies on a certificate issued by the Centre. In the alternative, it is prayed that officiating allowance be granted to the Petitioner for the period 1996 to 2018, in the interest of justice. Insofar as the relief of regularization is concerned, the same cannot be granted as regularization cannot be a source of recruitment and this direction would be against the Recruitment Rules, where the only source of recruitment to the post of Driver is direct recruitment. However, insofar as the officiating allowance is concerned, the certificate indeed shows that services of the Petitioner have been utilized as a Driver from 1996 to 2018. In this view of the matter, it is left open to the Petitioner to make a representation to the Centre claiming officiating allowance for the aforementioned period. As and when the representation is received by the Centre, the same shall be considered in



light of various documents such as the certificate shown by the Petitioner, evidencing that he was actually working as a Driver and if the officiating allowance is due to him, the same shall be released within eight weeks from the date of the decision. In case of any surviving grievance limited to this aspect, Petitioner will be at liberty to take recourse to legal remedies.

10. Petition is dismissed in the aforesaid terms.

**JYOTI SINGH, J**

**AUGUST 30, 2024**

*DV/shivam*