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

+ **W.P.(C) 1975/2022 & CM APPL. 2760/2024**

SUNIL KUMAR

.....Petitioner

Through: Mr. Rajesh Pathak, Mr. Ishank Gupta,
Ms. Ritika Tanwar and Ms. Prachi
Patwal, Advocates.

versus

MCD(EAST) AND ORS

.....Respondents

Through: Ms. Aakanksha Kaul, Mr. Vaptarshi
S., Mr. Aman S. and Ms. Ashima
Chopra, Advocates for R-1 & 2.
Mr. Tushar Sannu, SC with Mr.
Fajallu Rehman and Mr. Parvin
Bansal, Advocates for MCD.
Mr. T.P. Singh, Sr. CGSC for R-3.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

04.02.2026

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1. This writ petition seeks a writ of mandamus (i) to compel Respondent Nos. 1 and 2 to '*comply*' with the recommendations and assurances recorded in the proceedings before the National Commission for Scheduled Castes ("*NCSC*") on 29th October, 2021; (ii) to direct reinstatement or re-engagement of the Petitioner, asserting '*legitimate expectation*' founded on letters dated 29th October, 2021 and 12th November, 2021; and (iii) to grant an interim direction to permit the Petitioner to resume duties, pending disposal of the present petition.

2. The Petitioner claims that he was working as a Cartman with



Respondents No. 1 and 2 in Ward No. 220, Patparganj, Shahdara (South Zone). He states that he was unable to attend his duties in the year 2008 due to medical reasons, and a medical certificate was submitted. He further alleges that owing to personal animosity and caste-related issues, he was removed from service without notice.

3. The record indicates that disengagement took effect by an order dated 27th July, 2010. The writ petition was filed in the year 2022. The delay is, therefore, close to twelve years from the impugned action. The Petitioner explains that he approached Respondent No. 1 with the hope of being taken back into service. When no relief was forthcoming, the Petitioner pursued the matter with NCSC, under Articles 338(5) and 338(8) of the Constitution of India and the Respondents, in those proceedings, indicated willingness to take him back. It is his case that despite recommendations, Respondents failed to comply. Second, it is argued that the cause of action is ‘fresh’ because a representation was rejected on 16th December, 2021.

4. The Court has heard counsel for the parties. The first limb of the explanation offered for the long delay does not assist the Petitioner. Pursuit of proceedings before the NCSC cannot be treated as a substitute for timely invocation of legal remedies against an order of disengagement. The NCSC does not adjudicate service disputes or grant enforceable service reliefs such as reinstatement; its role under Article 338 is essentially investigatory and recommendatory. The Supreme Court has clarified that, even though the Commission is empowered to conduct inquiries and make recommendations, it is not a forum vested with service appellate jurisdiction.¹ Consequently,

¹ See *All India Indian Overseas Bank SC and ST Employees’ Welfare Association & Ors. v. Union of India & Ors.* (1996) 6 SCC 606.



any recommendation, even if made, does not operate as an executable direction to reinstate. What follows from Article 338 is a constitutional obligation on the State to consider and respond to the Commission's reports and recommendations; it does not displace the settled requirement that a service grievance must be pursued promptly before the competent forum. Time spent in such proceedings, therefore, cannot be pressed into service to excuse, or dilute, the delay in approaching this Court.

5. The second limb of fresh cause of action with the rejection of the representation, is equally untenable. The Supreme Court has repeatedly cautioned that stale claims cannot be revived by the simple device of making repeated representations and then treating the eventual response as the starting point of limitation. Directions to consider or the act of considering a belated representation do not breathe life into a dead dispute, and do not shift the clock back to zero. The Supreme Court, in *C. Jacob v. Director of Geology and Mining & Anr.*², squarely holds that disposal of such representations cannot resuscitate 'dead' or 'stale' disputes. Further, *Union of India & Ors. v. M.K. Sarkar*³ reiterates that repeated or belated representations do not cure delay and laches and cannot be used to generate a fresh round of litigation. The same discipline also finds expression in *State of Uttaranchal & Anr. v. Shiv Charan Singh Bhandari & Ors.*⁴, where the Supreme Court repelled the argument that representations can serve as a defence to long delay.

6. The petition, in substance, asks the writ court to reopen a service separation that occurred on 27th July, 2010 and to grant reinstatement on that

² (2008) 10 SCC 115.

³ (2010) 2 SCC 59.



basis. On the Petitioner's own showing, the disengagement is the operative event. The passage of nearly twelve years before approaching this Court remains unexplained in any legally acceptable sense. In such circumstances, entertaining the claim would defeat the settled discipline that writ jurisdiction is not meant for resurrection of stale service disputes through successive representations.

7. Delay and laches are not a technical defence in writ jurisdiction. Article 226 confers a discretionary remedy. Where the challenge is to a long-past service disengagement, and reinstatement is sought after a decade or more, the writ court ordinarily declines relief because the claim becomes inequitable to enforce. Records fade, official positions get filled, administrative arrangements settle, and a remedy that might have been workable in real time becomes disruptive and unfair to the system and to third parties.

8. For these reasons, the writ petition is barred by delay and laches.

9. The present writ petition is accordingly dismissed, along with the pending application(s).

SANJEEV NARULA, J

FEBRUARY 4, 2026/as

⁴ (2013) 2 SCC 179.