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

\+ W.P.(C) 759/2025 and CM APPL. 3769/2025

BIMLA DEVI .....Petitioner

Through: Mr. Sumeet Anand, Mr. Pratyush Parimal and Ms. Priya Saxena, Advocates with petitioner in person

versus

GOVT. OF NCT OF DELHI & ORS. .....Respondents

Through: Mrs. Avnish Ahlawat, Standing Counsel with Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advocates

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

% 29.01.2025

C.HARI SHANKAR, J.

1. The Central Administrative Tribunal[1] has, by order dated 2 December 2024, dismissed OA 1909/2023 as grossly barred by delay and latches.

2. Having heard Mr. Sumeet Anand, learned counsel for the petitioner and Mrs. Avnish Ahlawat, learned Standing Counsel, for the respondent, we find no reason whatsoever to interfere with the impugned judgment.

[1] "the Tribunal", hereinafter

3. The petitioner applied for recruitment to the post of Trained Graduate Teacher (Hindi)[2] in the Directorate of Education, pursuant to an advertisement issued in 2003. She participated in the selection which took place on 29 April 2003. Her documents were verified in 2005. The result of the selection tests held on 29 April 2003 was admittedly made known on 8 June 2004. Her name did not figure in the final select list. Nonetheless, she was asked to submit documents thereafter on 23 June 2004.

4. Thereafter, a second advertisement was issued by the Delhi Subordinate Services Selection Board[3] in 2007 for the same post. She again applied for the post. She was selected and joined as TGT (Hindi) in August 2008.

5. In the interregnum, on 22 March 2007, the petitioner was informed that, as her name was not in the select list, she could not be appointed. According to Mr. Anand, learned counsel for the petitioner, the reason for the respondent's name not figuring in the select list was never made known to her at that time. He submits that it was only subsequent to an application under the Right to Information Act, 2005[4] in 2007 that the petitioner was informed, in 2014, that she had not been selected pursuant to the selection on 29 April 2003 as she did not have sufficient marks in her Graduation.

6. There is no explanation as to why the petitioner, on not finding herself appointed, waited for 3 years till 2007 to make enquiries under

[2] "TGT", hereinafter
[3] "the DSSSB", hereinafter
[4] "the RTI Act", hereinafter

the RTI Act regarding the reason for her non-selection.

7. After 2014, the petitioner filed OA 1191/2015 before the Tribunal on 23 October 2015. The said OA came to be dismissed for non-prosecution on 17 October 2019.

8. The petitioner apparently did not move any application for restoration of the OA. Instead, the petitioner chose to file a fresh OA 1909/2023, four years thereafter.

9. Though Mr. Anand seeks to submit that the petitioner was misguided and had not been properly informed, the record – and the impugned order – speak otherwise. It appears that the petitioner, for reasons best known to her, never chose to have OA 1191/2015 restored, though it was dismissed on 17 October 2019. She apparently came to know thereafter that candidates who had been appointed as TGT (Hindi) consequent to the selection test held on 29 April 2003 had been given the benefit of the Old Pension Scheme consequent to certain judicial orders. This provoked the petitioner to address a representation to the respondent three years thereafter on 28 December 2022, seeking the benefit of the Old Pension Scheme. It was only thereafter that the petitioner approached the Tribunal by way of OA 1909/2023, again raking up the same challenge which formed subject matter of OA 1191/2015, which had been dismissed for non-prosecution on 17 October 2019, i.e. her non- selection consequent to the selection test held on 29 April 2003.

10. The very maintainability of such an OA is highly debatable. Nonetheless, the Tribunal has correctly noted that the petitioner, at all points of time, acted with complete indolence, and her OA was grossly barred by delay and latches.

11. Law, it is trite, does not come to the aid of the indolent.

12. The Supreme Court has in its recent judgment in ***UOI v. C. Girija***[5] specifically noted that, while exercising jurisdiction under Article 226 of the Constitution of India, the Court is required to keep in mind the aspect of delay and latches. The relevant paragraphs from the said decision may be noted thus:

> 16. This Court had occasion to consider the question of cause of action in reference to grievances pertaining to service matters. This Court in ***C. Jacob* v. *Director of Geology and Mining***[6] had occasion to consider the case where an employee was terminated and after decades, he filed a representation, which was decided. After decision of the representation, he filed an OA in the Tribunal, which was entertained and order was passed. In the above context, in para 9, following has been held:
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> > "9. The courts/tribunals proceed on the assumption, that every citizen deserves a reply to his representation. Secondly, they assume that a mere direction to consider and dispose of the representation does not involve any "decision" on rights and obligations of parties. Little do they realise the consequences of such a direction to "consider". If the representation is considered and accepted, the ex-employee gets a relief, which he would not have got on account of the long delay, all by reason of the direction to "consider". If the representation is considered and rejected, the ex-employee files an application/writ petition, not with reference to the original cause of action of 1982, but by treating the rejection of the representation given in 2000, as the cause of action. A prayer is made for quashing the rejection of representation and for grant of the relief

[5] **2019 SCC Online SC 187**
[6] **(2008) 10 SCC 115**

claimed in the representation. The tribunals/High Courts routinely entertain such applications/petitions ignoring the huge delay preceding the representation, and proceed to examine the claim on merits and grant relief. In this manner, the bar of limitation or the laches gets obliterated or ignored."

17. This Court again in ***Union of India* v. *M.K. Sarkar***[7] on belated representation laid down following, which is extracted below:

> "15. When a belated representation in regard to a "stale" or "dead" issue/dispute is considered and decided, in compliance with a direction by the court/tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the "dead" issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches."

18. Again, this Court in ***State of Uttaranchal* v. *Shiv Charan Singh Bhandari***[8], had occasion to consider question of delay in challenging the promotion. The Court further held that representations relating to a stale claim or dead grievance does not give rise to a fresh cause of action. In paras 19 and 23 following was laid down:

> "19. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix. Similarly, a mere submission of representation to the competent authority does not arrest time.

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[7] **(2010) 2 SCC 59**
[8] **(2013) 12 SCC 179**

23. In ***State of T.N.* v. *Seshachalam***[9], this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus:

> 16. … filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may 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."

19. This Court referring to an earlier judgment in ***P.S. Sadasivaswamy* v. *State of T.N.***[10], noticed that a person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. In paras 26 and 28, following was laid down: (***Shiv Charan Singh Bhandari case***[11])

> "26. Presently, sitting in a time machine, we may refer to a two-Judge Bench decision in ***P.S. Sadasivaswamy* v. *State of T.N.*** (*supra*), wherein it has been laid down that:
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> > '2. … A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the courts to exercise their powers under Article 226 nor is it that there can never be a case where the courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the court to put forward stale claims and try to unsettle settled matters.'
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[9] **(2007) 10 SCC 137**
[10] **(1975) 1 SCC 152**
[11] **State of Uttaranchal v. Shiv Charan Singh Bhandari, (2013) 12 SCC 179**

> 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."

13. There is clearly no infirmity in the judgment of the Tribunal. The OA filed by the petitioner was a mere attempt at a second bite at a cherry so as to get the benefit of the Old Pension Scheme, raking up a stale and moth-eaten cause of action, which was of 20 years' vintage by then.

14. There is no cause for us to interfere with the impugned judgment.

15. The writ petition is accordingly dismissed.

C.HARI SHANKAR, J.

AJAY DIGPAUL, J.

JANUARY 29, 2025*/yg*

Click here to check corrigendum, if any