

(2018) 01 DEL CK 0225
In the Delhi High Court
Case No : Civil Writ Petition No. 87 Of 2018

Mrinal Ranjan

APPELLANT

Vs

Airport Authority Of India And Anr

RESPONDENT

Date of Decision : 05-01-2018

Acts Referred:

Citation : (2018) 01 DEL CK 0225

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : Keshav Dayal, Sheo Kumar Gupta, Mukesh Singh, Sonu Yadav, Digvijay Rai, Chetna Rai, Pulkit Tyagi, Reshesh Mani Tripathi, Tripurari Jha

Final Decision : Dismissed

Judgement

Sunil Gaur, J

1. This is second round of litigation. In the first round of litigation, petitioner had sought mandamus to first respondent to issue appointment letter to petitioner for the post of Manager (Electronics) in Airport Authority of India pursuant to Advertisement of the year 2007, as petitioner claimed that he was in the Waitlist Panel prepared for selected candidates. The first round of litigation ended with the order of 4th August, 2017 (Annexure P-14) vide which petitioner was permitted to make a Representation and respondent was directed to decide it by passing a speaking order. The order impugned in this petition is a speaking one, which respondent has passed in terms of directions issued on 4th August, 2017. Impugned order of 3rd October, 2017 (Annexure P-1) takes note of the factual position and concludes that petitioner being a departmental candidate was fully aware of the display of the select list and in fact, petitioner had participated in the second recruitment process in the year 2010 and that petitioner cannot claim parity with Ankit Kumar and others as they were vigilant and had sought recourse to law in time.

2. Learned senior counsel for petitioner assails impugned order (Annexure P-1)

on the ground that petitioner was unaware of the writ petition and LPA filed by Ankit Kumar and others and for the first time, petitioner came to know about the case filed by Ankit Kumar and others in December, 2015 and had then moved an application for impleadment before the Supreme Court in SLP filed by respondent against the order of Division Bench directing respondent herein to appoint Ankit Kumar and others as Managers (Electronic). It is submitted by learned senior counsel for petitioner that since liberty was granted to petitioner by Supreme Court to avail of the remedies, therefore, W.P. (C) 6665/2017 was filed, which stood disposed of vide order of 4th August, 2017 (Annexure P-14) and so, on the ground of delay, petitioner cannot be discriminated and has to be treated at par with Ankit Kumar and others, who have been given appointment letters by first respondent.

3. On the other hand, learned counsel for respondent No.1 supports impugned order and relies upon Supreme Court's decision in *State of Orissa & Anr. Vs. Mamata Mohanty* (2011) 3 SCC 436 to submit that unless a proper explanation for delay and laches is forthcoming, belated petitions ought not to be entertained. It is submitted that the only explanation put forth by petitioner is in third paragraph of writ petition and LPA filed by Ankit Kumar and others. So, it is submitted that unexplained delay, which is of 6 years and 5 months, ought not be condoned, as petitioner had participated in the subsequent selection process, but was unsuccessful.

4. To controvert first respondent's stand, learned senior counsel for petitioner relies upon Supreme Court's decision in *Mahesh Chand Vs. Union of India & Anr.* MANU/SC/1268/2014 (Annexure P-11) to submit that similarly placed persons ought to be treated at par.

5. Upon hearing and on perusal of impugned order (Annexure P-1), material on record and the decisions cited, I find that delay aspect has to be considered in the light of legal position reiterated by Supreme Court in *Mamta Mohanti* (Supra), which is as under:-

"54. This Court has consistently rejected the contention that a petition should be considered ignoring the delay and laches in case the petitioner approaches the Court after coming to know of the relief granted by the Court in a similar case as the same cannot furnish a proper explanation for delay and laches. A litigant cannot wake up from deep slumber and claim impetus from the judgment in cases where some diligent person had approached the Court within a reasonable time."

6. Petitioner herein has pleaded ignorance about filing of writ petition and LPA by Ankit Kumar and others but that by itself is not enough. What petitioner was required to assert is that he was unaware of the select list. Pleadings in this petition on this crucial aspect are lacking. In any case, it is evident from the order of 4th August, 2017 (Annexure P-14) in the earlier round of litigation, that petitioner was aware that he was in the wait list of the panel prepared for the

selected candidates, in pursuance to the Advertisement of the year 2007.

7. Way back in the year 2009-2010, when the wait list of the select panel was displayed, similarly placed persons, as petitioner, had approached the Court in the year 2011, whereas petitioner had opted to apply afresh in terms of subsequent Advertisement of the year 2010, but was unsuccessful. Evidently, the delay aspect, as in the case of Ankit Kumar and others was not substantial, whereas in the instant case it is.

8. This Court is of the considered opinion that reliance placed upon Supreme Court's decision in Mahesh Chand (Supra) is of no avail, as the delay aspect was not subject matter of consideration in the said decision, whose ratio is that similarly placed persons are to be treated at par. In the instant case, unexplained delay assumes importance for the reason that a person, who sleeps over his rights, is not entitled to discretionary relief in exercise of writ jurisdiction. Since inordinate delay of more than six years remains unexplained, therefore, there is no option except to dismiss this petition on the ground of delay and laches.

9. In the light of the aforesaid, this petition and is dismissed in limine, being hit by delay and laches.