

(2009) 04 DEL CK 0331

In the Delhi High Court

Case No : Writ Petition (Civil) No. 8086 of 2009

V.K. Dogra

APPELLANT

Vs

Nehru Memorial Museum and Library and Another

RESPONDENT

Date of Decision : 30-04-2009

Acts Referred:

Citation : (2009) 04 DEL CK 0331

Hon'ble Judges : V.K. Shali, J

Bench : Single Bench

Advocate : Nemo, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Shali, J.—The Petitioner in the instant writ petition has prayed for setting aside the impugned orders dated 2nd July, 2008 and 5th July, 2002 and has further prayed that the Petitioner be granted a pay scale of Rs. 1640-2900 w.e.f 1st January, 1986 and Rs. 5500-9000 w.e.f. 1st January, 1996 and then financial upgradation in the non-hierarchy pay scale of Rs. 8000-13500 and ACP Scheme w.e.f. 1st January, 2000 with an interest @18% per annum.

2. Briefly stated the case of the Petitioner is that the Petitioner was employed with the Respondent as a Technical Assistant (Preservation) in the year 1980 in the pay scale of Rs. 425-500. It is alleged by the Petitioner that the Ministry of Human Resources Development, Government of India had proposed the merger of posts of Technical Assistant in the pay scale of Rs. 425-700 with Senior Technical Assistant in the pay scale of Rs. 550-900 in the Department of Culture. It is alleged that although the recommendation was accepted by the Government of India by framing the Central Civil Services (Revised Pay) Rules, 1986 but it did not give the requisite scale of Rs. 1640-2900 in lieu of pre revised scale of Rs. 425-700, however, the same scale was not given to the Petitioner by the Respondents/GOI, and accordingly, the present writ petition has been filed.

3. So far as the cause of action is concerned, a reference is made to the letter

dated 2nd July, 2008 as the basis coming to the Court. By the said letter dated 2nd July, 2008 a reference is made to the representation dated 25th April, 2008 addressing the Chairman, Executive Council, Nehru Memorial Museum & Library regarding upgradation of his pay scale and it has been observed that the Department of Culture vide their letter dated 5th July, 2002 has already taken a stand that there appears to be no justification for accepting the request. It is on the basis of these two letters that the present writ petition has been filed.

4. I have heard the learned Counsel for the Petitioner and perused the record. I have also gone through the judgment cited by the learned Counsel for the Petitioner. In case titled S.S. Rathore Vs. State of Madhya Pradesh, .

5. At the outset, I must state that in nutshell the grievance of the Petitioner is the revision of his pay scale for the post of Senior Technical Assistant (Preservation) w.e.f. 1st January, 1986 and the subsequent Pay Commission in terms of the Fourth Pay Commission and Fifth Pay Commission recommendation dated 1st January, 1996 on the ground that though the Department of Culture had recommended upgradation of the scale of the post of the Petitioner yet the same was not accepted by the Respondents.

6. It may be pertinent here to mention that the Petitioner has already superannuated and the prayer of the Petitioner for seeking revision of pay scale w.e.f. 1st January, 1986 and 1st January, 1996 in terms of Fourth and Fifth Pay Commission is ex-facie barred by inordinate delay and laches. The Petitioner is trying to raise a stale claim. The Petitioner is trying to justify the delay by stating that he had made a representation which was rejected on 2nd July, 2008, and therefore, the period of limitation would start from 3rd July, 2008. I do not agree with the submissions of the learned Counsel for the Petitioner that the period of limitation starts from 3rd July, 2008. The Petitioner was aware while he was in service that he is not being given enhanced pay scale as was prayed by him, therefore, he ought to have approached the Court at the earliest possible occasion which he did not do either in 1986 or even in 1996. Now the Petitioner has retired and his representation in fact has been rejected on 2nd July, 2002 even if the period of limitation reckoned from 2nd July, 2002, it is inordinately delayed, merely by making repeated representation the Respondents were not under obligation to entertain such representations and intimate the outcome of the matter to the party concern much less the party can take advantage of these letters so as to base of his cause of action on the basis of these letters.

7. The judgment in case of S.S. Rathore (supra) which has been cited by the learned Counsel for the Petitioner deals with a suit for declaration against the order of dismissal from service wherein it has been held that Article 58 is not applicable. It is settled legal position that in matters of writs though there is no limitation but there is a concept of inordinate delay and laches which may bar the remedy sought by an individual.

8. For the foregoing reasons mentioned above, I am of the considered opinion

that the writ petition of the Petitioner is barred by inordinate delay and latches, and accordingly, the same is dismissed.