

HCJD/C-121
JUDGMENT SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

W.P. No.2454/2012

SYED KHALID MEHMOOD
VERSUS
OGDCL THROUGH ITS MANAGING DIRECTOR, ETC.

Petitioner by : **Muhammad Arshad Raja Advocate**
Respondents by : **Chaudhry Sultan Mansoor Advocate**
Date of Hearing : **23-09-2014.**

ATHAR MINALLAH, J.- Briefly stated, the facts of the case are that the petitioner was appointed in Oil & Gas Development Corporation (hereinafter referred to as the 'Corporation') on 24-03-1986, as a Store Assistant in Grade B-12. He was promoted as Store Supervisor in Grade B-14 on 01-07-1999. The petitioner retired on reaching the age of superannuation on 13-03-2011. After retirement he filed an application dated 01-06-2012, requesting that he may be considered for promotion. The request made by the petitioner was regretted vide order dated 25-06-2012 (hereinafter referred to as the 'impugned order'). The petitioner, thereafter, invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the 'Constitution').

2. The learned counsel for the petitioner contends that the petitioner was not considered for promotion in the year 2006, while in 2007 he was considered but not recommended for promotion. It is

contended that the petitioner fulfilled the criteria for promotion as specified by the respondent. However, it is admitted that while the petitioner remained in service, he failed to challenge the promotions which have now been assailed through the present petition. Reliance is placed on 1998 S.C.M.R. 2472, 2011 S.C.M.R. 389, 2003 S.C.M.R. 1115, unreported judgment in C.P.L.A. No.1538 of 2008 and N.L.R. 2009 Service 4.

3. On the other hand, the learned counsel for the respondent contends that the petition is liable to be dismissed on the sole ground of laches and for non-joinder of necessary parties. It is further contended that the prayer sought in the petition is vague and the petitioner seeks promotion since 1990-1991. It is also argued that while in service the petitioners acquiescence to the promotions is evident from his conduct and, therefore, the belated application dated 01-06-2012 cannot give a cause of grievance to the petitioner.

4. After giving careful consideration to the arguments of the learned counsels and perusal of the record with their able assistance, this Court holds as follows.

5. The petitioner retired on 13-03-2011 after reaching the age of superannuation and, thereafter, filed the application dated 01-06-2012. In reply the respondent explained, vide letter dated 25-06-2012, that the petitioner was considered for promotion on various occasions but was not recommended for promotion as he was not found eligible. The reasons for not being considered for promotion in 2006 and, thereafter, considered

but not recommended in 2007 were also stated in the said letter. It is an admitted position that employees who were junior to the petitioner were promoted but he did not challenge their promotion. While in service, the petitioner made representations dated 26-12-2006 and 10-05-2009. However, perusal of both the said representations reveals that the petitioner neither challenged the eligibility of his juniors who were promoted nor raised any arguable ground in support of his own eligibility. Despite being aware that employees junior to him were recommended and promoted, the petitioner did not challenge the promotions and pursue the same as would be expected from a vigilant aggrieved person. Acquiescence on part of the petitioner is evident from his conduct. The belated application dated 01-06-2012, filed after more than a year from the date of retirement, raises questions regarding the bonafides on part of the petitioner. The petitioner by failing to challenge the promotions at the earliest reasonable opportunity, allowed rights to be created in favour of those who despite being junior were duly recommended and promoted. The petitioner ought to have known that promotions are made against available vacancies and if they are not challenged promptly, the matter becomes a past and closed transaction. It is essential that a person aggrieved must approach the proper forum with utmost expedition, otherwise inordinate delay is sufficient cause to refuse exercising discretionary power under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. The case law relied upon by the learned counsel for the petitioner is distinguishable, having no relevance for the purposes of the present petition.

6. There is nothing on record to persuade this Court to grant the relief as prayed, nor the conduct of the petitioner is such which would entitle him for an equitable relief by allowing the petition. The petition is without any merits, vague and an attempt to reopen past and closed transactions. The petitioner has also not been able to explain the inordinate delay in assailing the acts, which besides being past and closed transactions, created rights in favour of others. In the circumstances, the petition being without any merit is, therefore, dismissed.

7. This Court restrains itself from imposing costs since the petitioner is a retired pensioner.

(ATHAR MINALLAH)
JUDGE

Announced in open Court on 14-10-2014.

JUDGE