

GAHC020002362024

2024:GAU-NL:519-DB



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**  
**KOHIMA BENCH**

**Case No. : WA/13/2024**

C.T. WENKHANG KONYAK  
SUBEDAR MAJOR VILLAGE GUARDS ORGANISATION, MON,  
NAGALAND

VERSUS

THE STATE OF NAGALAND AND 6 ORS  
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT  
OF NAGALAND, NAGALAND, KOHIMA

2:THE PRINCIPAL SECRETARY  
HOME DEPARTMENT  
NAGALAND  
KOHIMA

3:THE COMMISSIONER AND COMMANDANT GENERAL  
NAGALAND VILLAGE GUARD ORGANISATION  
NAGALAND  
KOHIMA

4:THE COMMANDANT  
  
VILLAGE GUARDS ORGANISATION  
TUENSANG  
NAGALAND

5:THE DEPUTY COMMISSIONER AND EX OFFICIO COMMANDANT  
VILLAGE GUARDS ORGANISATION  
MON, NAGALAND.

6:THE DEPUTY COMMAMDANT  
VILLAGE GUARDS ORGANISATION

MON  
NAGALAND.

7:T. KIUSU TIKHIR  
ASSTT. COMMANDANT VILLAGE GUARDS  
KIPHIRE  
NAGALAND

Advocate for the Petitioner : Mr. Wati Jamir,  
Ms. Alito Swu,  
Mr. S. Imli, Advs.

For the State respondents : Mr. E. Thiba Phom, Govt. Adv.

For the respondent No. 7 : Mr. Tongpok Pongener,  
Mr. Akum Jamir,  
Mr. L. Phom,  
Ms. Asenla S. Longkumer,  
Ms. Vikehienuo Vimerha,  
Ms. Ayala Imchen,  
Mr. Muthoi,  
Mr. Akum Aier, Advs.

Date of hearing : **04.09.2024**

**-BEFORE-**  
**HON'BLE MR. JUSTICE KAKHETO SEMA**  
**HON'BLE MR. JUSTICE BUDI HABUNG**

**JUDGMENT & ODER (CAV)**

**Date : 26-09-2024**  
**(K. Sema, J)**

The present writ appeal has been filed to quash and set aside the judgment & order dated 24/04/2024 passed by the learned Single Judge in W.P.(C) No. 258/2020 dismissing the writ petition on grounds of delay and laches.

**2.** The facts of the case in brief, as projected in the writ petition, is briefly recited as follows;

i) By the order dated 25/07/2000 issued by the Addl. Chief Secretary & Commissioner, Nagaland, the petitioner was promoted and appointed in the post of

Jamadar, in the Village Guards Organization. Thereafter, by the order dated 10/02/2006, the petitioner was promoted to the post of Subedar V.G. Subsequently, by the order dated 24/10/2016 issued by the Commissioner, Nagaland, Kohima, the petitioner and the respondent No.7 were both promoted to the post Subedar Major V.G. In the order dated 24/10/2016, the petitioners name appeared at Sl. No.2 while the name of the respondent No.7 appeared in Sl. No.1.

ii) Thereafter, by the Memorandum dated 14/09/2018 issued by the Commissioner & Commandant General, V.G, Nagaland, the tentative seniority list of all the Subedar Major, in the Village Guards Organization, as on 15/09/2018 was published. In the said tentative seniority list, the name of the writ petitioner was shown at Sl. No. 7 while the respondent No.7 was shown in Sl. No. 8 of the list. The Memorandum dated 14/09/2018 also provided that any objection/correction to the tentative seniority list may be submitted within 30 days from the date of issuance of the memorandum and in the event no objection is filed within the stipulated date the tentative seniority list shall be treated as final.

iii) Subsequent to the issuance of the memorandum dated 14/09/2018 publishing the tentative seniority list, the Government of Nagaland, Office of the Commissioner, Nagaland, in continuation of the memorandum dated 14/09/2018, issued the Memorandum dated 30/11/2018 publishing the final common seniority list of Subedar Major of all districts under the Village Guards Organization as on 15/09/2018. In the final seniority list, the respondent No.7 appeared at Sl. No. 7 of the said list while the writ petitioner appeared at Sl. No. 8 below the respondent No.7.

iv) That consequent to the issuance of the Memorandum dated 30/11/2018 publishing the final seniority list, the Government of Nagaland, Home Department, Police 'B' Branch issued the notification dated 19/07/2021 promoting the respondent No.7 and two others from the post of Subedar Major to that of Asstt. Commandant (CI-I gaz). The promotion was made on the recommendation of the Departmental Promotion Committee.

v) Subsequent to the issuance of the notification dated 19/07/2021, the writ

petitioner, through one Mr. Ching kai Konyak, filed the application dated 12/08/2022, to the department concerned, seeking necessary information under the RTI Act, 2005 and pursuant to which the information was furnished by the department on 03/10/2022 along with the copy of the Minutes of the DPC held on 15/07/2021. It was only from the Minutes of the DPC, that the writ petitioner, could discover that the recommendation for promotion of the respondent No.7 was made on the basis of the seniority list, APARs and the available service records. It was only subsequent thereto, that the writ petitioner could obtain the copy of the Office Memorandum dated 30/11/2018 publishing the common final seniority list of the Subedar Major of all districts in the Village Guards Organization.

vi) Against the notification dated 19/07/2021, the writ petitioner also submitted the representation dated 12/09/2022 to the Principal Secretary, Home Department, Nagaland, Kohima, seeking revocation of the promotion of the respondent No.7 to the post of Asstt. Commandant, on the ground that, the writ petitioner was appointed to the post of Jamadar prior to the respondent No. 7 and was also senior to the said respondent in the rank of Subedar Major.

vii) The writ petition was thereafter filed seeking for the following relief(s);

*“To set aside and quash;*

- A. The impugn seniority list of Subedar Major issued vide Memorandum dated 30/11/2018 in respect of Sl. No. 7 & 8 (Annexure-I to the writ petition).*
- B. Minutes of the Departmental Promotion Committee held on 15/07/2021 and the recommendation in respect of serial No.4 (Annexure-H to the writ petition).*
- C. Impugn notification dated 19/07/2021 in respect of serial No.3 (Annexure-E to the writ petition).*
- D. Direct the authorities to consider the case of the petitioner for promotion to the post of Asst. Commandant by fixing the seniority in accordance with law.”*

viii) The learned Single Judge, after hearing the parties, by the judgment & order dated 24/04/2024 dismissed the writ petition on the ground that the inter-se

seniority between the writ petitioner and the respondent No.7 finalized in the year 2018 was impugned only in the year 2022 by filing the writ petition and the delay had not been satisfactorily explained. The writ petition was also dismissed observing that any change, in the seniority list would create confusion and difficulties in the administrative set up.

ix) It is the correctness of the judgment & order dated 24/04/2024 which is challenged in the present appeal.

**3.** We have heard Mr. Wati Jamir, learned counsel for the appellant/writ petitioner, Mr. E. Thiba Phom, learned Government Advocate for the State respondent No. 1 to 6 and Mr. Tongpok Pongener, learned counsel for the respondent No. 7.

**4.** Mr. Wati Jamir, the learned counsel for the appellant/writ petitioner submits that, since the writ petitioner is posted in the interior Phomching village, under Mon district, the petitioner came to know of the order dated 19/07/2021, promoting the respondent No.7 to the post of Asstt. Commandant, only in the month of February 2022. It was only thereafter that the petitioner through one Mr. Chingkai Konyak submitted the application dated 12/08/2022 to the department seeking relevant information under the RTI Act 2005, which was furnished by the department on 03/10/2022 enclosing the Minutes of the DPC Meeting dated 15/07/2021, recommending the promotion of the respondent No.7 and two others to the post of Asstt. Commandant V.G, purportedly on the basis of the seniority list, APARs and the available service records and it was only subsequent thereto that the petitioner came across the Memorandum dated 30/11/2018 publishing the seniority list of the Subedar Major of all districts under the Village Guards Organization. In the said seniority list, the name of the respondent No.7 was placed in Sl. No. 7 while the petitioner was placed in Sl. No. 8 below the respondent No.7. Mr. Wati Jamir submits that, besides the memorandum dated 14/09/2018, publishing the tentative seniority list of Subedar Major under V.G Organization, the memorandum dated 30/11/2018 publishing the final seniority list of Subedar Major was never circulated and because of which the petitioner never had the occasion to raise objection against the memorandum dated 30/11/2018. Mr. Wati Jamir further submits that though the memorandum dated 30/11/2018 issued by the

Commissioner & Commandant General, VG, Nagaland, was endorsed to all the officers under the VG Organization, for information to all the Subedar Majors, the petitioner was never informed nor served with the copy of the memorandum dated 30/11/2018, nor was the said memorandum made available in the establishment of the Deputy Commandant VG, Mon where the petitioner is serving.

**5.** Mr. Wati Jamir submits that, the petitioner came to know of the memorandum dated 30/11/2018 for the first time in the last part of the October 2022, only subsequent to the RTI information received from the department on 03/10/2022, and it was only thereafter that the writ petition could be filed after obtaining the copy of the Minutes of the Meeting of the DPC held on 15/07/2021, the memorandum dated 30/11/2018 publishing the seniority list of the Subedar Major under the V.G Organization and the notification dated 19/07/2021 promoting the respondent No.7 to the post of Asstt. Commandant V.G.

**6.** Mr. Wati Jamir has accordingly submitted that there is no delay in filing the writ petition and the delay, even if any, had been satisfactorily explained. The learned Single Judge however without adjudicating any of the issues raised in the writ petition had erroneously dismissed the writ petition only on the grounds of delay and laches. The learned counsel therefore submits that the judgment & order dated 24/04/2024 passed by the learned Single Judge be quashed and set aside and the matter remanded back for proper adjudication on merit.

**7.** In support of his submission that there is no delay in filing the writ petition, and the delay, even if any, has been satisfactorily explained, Mr. Wati Jamir has referred to the following cases;

i) **Smti. Sudama Devi -versus- Commissioner & Others**, reported in **(1983) 2 SCC 1**, where the Hon'ble Supreme Court has held that there is no period of limitation prescribed by any law for filing a writ petition under Article 226 of the Constitution of India and accordingly no period of limitation can be laid down either under the rules made by the High Court or by practice, there may be cases where even short delay may be fatal while there may be cases where even a long delay may

not be evidence of laches on the part of the petitioner and in every case it would have to be decided on the facts and circumstances without taking into account any specific period as a period of limitation.

ii) **Ramachandra Shankar Deodhar & Others -versus- The State of Maharashtra & Others**, reported in **(1974) 1 SCC 317**, where the Hon'ble Supreme Court has held that the rule which says that the court may not enquire into belated and stale claims is not a rule of law but a rule of practice based on sound and proper exercise of discretion and there is no inviolable rule that whenever there is delay, the court must necessarily refused to entertain the petition. Each case must depend on its own facts. The question is one of discretion for the court to follow from case to case. There is no lower limit and there is no upper limit and it will all depend on what fundamental right has been breached and the remedy claimed and how the delay arose.

iii) **State of U.P. & Others -versus- Raj Bahadur Singh & Another**, reported in **(1998) 8 SCC 685**, where the Hon'ble Supreme Court has held that there is no time limit for filing the writ petition and all that the court has to see is whether the laches on the part of the petitioner are such as to disentitle him to the relief claimed by him.

iv) **Bangalore City Co-operative Housing Society Limited -versus- State of Karnataka & Others**, reported in **(2012) 3 SCC 727**, where the Hon'ble Supreme Court has held even though there is no period of limitation for filing petitions under Article 32 and 226 of the Constitution, the petitioner should approach the court without loss of time and if there is delay, then cogent explanation should be offered for the same. No hard and fast rule can be laid down or a straitjacket formula can be adopted for deciding whether or not the Supreme Court or the High Court should entertain a belated petition filed under Article 32 or 226 of the Constitution and each case must be decided on its own facts.

**8.** Mr. E. Thiba Phom, the learned Government Advocate for the State respondents submits that, by the order dated 24/10/2016, issued by the Commissioner, Nagaland,

Kohima, both the petitioner and the respondent No.7 were promoted to the post of Subedar Major VG. The writ petitioner and the respondent No. 7 submitted their joining report on 26/10/2016 and 25/10/2016 respectively. Pursuant thereto, the Office of the Commissioner & Commandant General VG, Nagaland, issued the memorandum dated 14/09/2018 publishing the tentative seniority list of all the Subedar Major under the VG Organization as on 15/09/2018. In the tentative seniority list, the petitioner was placed above the respondent No.7. The respondent No.7 therefore submitted the representation dated 25/09/2018 seeking necessary correction/rectification to the tentative seniority list on the ground that the said respondent had joined the post of Subedar Major prior to the petitioner. The Office of the Commissioner, Nagaland, accordingly wrote the letter dated 17/11/2018 to the Deputy Commandant VG, Mon, to authenticate the joining report of the petitioner in the post of Subedar Major VG, Mon and pursuant to which, the Deputy Commandant VG, Mon, wrote the letter dated 20/11/2018 conveying therein that the writ petitioner had joined the establishment as Subedar Major on 26/10/2016. It was only subsequent thereto, that the Office of the Commissioner, Nagaland, issued the memorandum dated 30/11/2018 publishing the final seniority list of the Subedar Major of all districts under the VG Organization. The memorandum dated 30/11/2018 was issued in continuation of the office memorandum dated 14/09/2018. In the final seniority list, the respondent No.7 was placed at Sl. No.7 of the list while the writ petitioner was placed at Sl. No.8.

**9.** Mr. E. Thiba Phom, the learned Government Advocate has submitted that the memorandum dated 14/09/2018 publishing the tentative seniority list and the memorandum dated 30/11/2018 publishing the final seniority list of the Subedar Major in the VG Organization, was issued by the Commissioner & Commandant General VG, Nagaland and uniformly circulated to all the Subedar Major in the organization through the Commandant VG Tuensang, the Deputy Commandant VG, Mon/Kiphire, the D C & Ex-Officio Commandant VG Nagaland and the ADC & Ex-Officio Assistant Commandant VG Meluri. Therefore, the contention of the writ petitioner that he only had the knowledge of the memorandum dated 14/09/2018 but not that of the memorandum dated 30/11/2018 cannot be accepted when both the memorandum's were published

and circulated in the same and identical manner.

**10.** In regard to the submission made by the learned counsel for the petitioner that the petitioner came across the notification dated 19/07/2021 promoting the respondent No.7 and two others to the post of Asstt. Commandant, only sometime in the month of February 2022, the learned Government Advocate, submits that, such submission of the petitioner is not only mischievous but misleading. The learned Government Advocate submits that the two Subedar Majors, who were promoted to Asstt. Commandant, along with the respondent No.7, prior to their promotion, were serving under the establishment of the Deputy Commandant VG, Mon, where the petitioner was also serving. It is therefore difficult to comprehend that the writ petitioner could have come across the notification dated 19/07/2021 only in the month of February 2022 and such submissions has been made by the petitioner, only to escape the delay, which is deliberate and intentional.

**11.** The learned Government Advocate accordingly submits that the grounds taken by the petitioner, to explain the delay, that the office memorandum dated 30/11/2018 publishing the final seniority list of Subedar Major came to the knowledge of the petitioner, only after the petitioner came across the notification dated 19/07/2021 in the month of February 2022 and after the relevant information was furnished under the RTI on 03/10/2022, is out and out false and misleading and the learned Single Judge, had rightly dismissed the writ petition, on grounds of delay and laches.

**12.** In support of his submission, the learned Government Advocate has relied in the case of **Malcom Lawrence Cecil D'Souza -versus- Union of India**, reported in **(1976) 1 SCC 599**, where the Hon'ble Supreme Court has inter-alia held that matters like one's position in the seniority list after having been settled for once should not be liable to be re-opened after lapse of many years at the instance of a party who has during the intervening period choose to keep quite. It was also held that raking up all matters like seniority after a long time is likely to result in administrative complication and difficulties, it would therefore appear to be in the interest of smoothness and efficiency of service that such matters should be given a quietus after lapse of sometime.

**13.** Mr. Tongpok Pongener, the learned counsel for the respondent No.7, adopting the line of submission made by the learned Government Advocate submits that the memorandum dated 14/09/2018 publishing the tentative seniority list of Subedar Major in the VG Organization and the memorandum dated 30/11/2018, publishing the final seniority list, were both widely circulated and notified, in the same manner, to all the Subedar Majors, by the office of the Commissioner, Nagaland, through the officers of the respective districts/units. Mr. Tongpok Pongener therefore submits that it is difficult to accept that the petitioner was aware only of the memorandum dated 14/09/2018 but ignorant of the memorandum dated 30/11/2018 when both the memorandums were issued one after the other within a short interval of time. The learned counsel accordingly submits that the submission made by the writ petitioner that he came across the memorandum dated 30/11/2018 only subsequent to the relevant information furnished by the department under the RTI on 03/10/2022, is false and misleading, and such a submission has been made with the sole intent of covering the delay which is deliberate and intentional.

**14.** On the notification dated 19/07/2021 promoting the respondent No.7 and two others to the post of Asstt. Commandant VG, Mr. Tongpok Pongener submits that, one of the promotees, namely Shri. L. John Konyak, was prior to his promotion, serving as Subedar Major at Mon, the same place/establishment where the writ petitioner was also serving. The learned counsel therefore submits that it is preposterous for the writ petitioner to contend that he came across the notification dated 19/07/2021 only in the month of February 2022 and that too, when the writ petitioner himself was also expecting his promotion to the post of Asstt. Commandant. The learned counsel accordingly submits that the stands taken by the petitioner, speaks volume of the motive of the petitioner to misguide the Court, by feigning ignorance, of the notification dated 19/07/2021. The learned counsel submits that, it is a well settled principle of law that, the Court exercising public law jurisdiction do not encourage agitation of stale claims and exhuming matters where the rights of the third parties has accrued in the interregnum. The writ petitioner/appellant was sleeping over his rights, even if any, and had belatedly filed the writ petition only after the lapse of

about 4 years after the seniority position between the petitioner and the respondent No.7 had finalized and therefore, the learned Single Judge had rightly dismissed the writ petition on grounds of delay and laches.

**15.** In support of his submission, the learned counsel for the respondent No.7 has relied in the following cases;

i) **Union of India & Others -versus- Tarsem Singh**, reported in **(2008) 8 SCC 648**, where the Hon'ble Supreme Court has held as under;

*"6. In [Shiv Das v. Union of India](#)<sup>3</sup>, this Court held: (SCC p.277, paras 8 & 10)*

*"8..... The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction.*

*10. ...."*

*7. .... If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the re-opening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied....."*

ii) **Shankara Co-operative Housing Society Limited -versus- M. Prabhakar & Others**, reported in **(2011) 5 SCC 607**, where the Hon'ble Supreme Court has held as under;

*"54. The relevant considerations, in determining whether delay or laches should be put against a person who approaches the writ court under [Article 226](#) of the Constitution is now well settled. They are:*

(1) *There is no inviolable rule of law that whenever there is a delay, the court must necessarily refuse to entertain the petition; it is a rule of practice based on sound and proper exercise of discretion, and each case must be dealt with on its own facts.*

(2) *The principle on which the court refuses relief on the ground of laches or delay is that the rights accrued to others by the delay in filing the petition should not be disturbed, unless there is a reasonable explanation for the delay, because court should not harm innocent parties if their rights had emerged by the delay on the part of the petitioners.*

(3) *The satisfactory way of explaining delay in making an application under Article 226 is for the petitioner to show that he had been seeking relief elsewhere in a manner provided by law. If he runs after a remedy not provided in the Statute or the statutory rules, it is not desirable for the High Court to condone the delay. It is immaterial what the petitioner chooses to believe in regard to the remedy.*

(4) *No hard-and-fast rule, can be laid down in this regard. Every case shall have to be decided on its own facts.*

(5) *That representations would not be adequate explanation to take care of the delay.”*

iii) **State of Uttar Pradesh & Others -versus- Arvind Kumar Srivastava & Others**, reported in **(2015) 1 SCC 347**, where the Hon'ble Supreme Court has held as under;

“20. The Court also quoted following passage from the Halsbury's Laws of England (para 911, p.395): (Jaswant Singh case<sup>11</sup>, SCC pp. 470-71, para-12)

“12.....In determining whether there has been such delay as to amount to laches, the chief points to be considered are:

(i) *acquiescence on the claimant's part; and*

(ii) *any change of position that has occurred on the defendant's part.*

*Acquiescence in this sense does not mean standing by while the violation of a right is in progress, but assent after the violation has been completed and the claimant has become aware of it. It is unjust to give the claimant a remedy where, by his conduct, he has done that which might fairly be regarded as equivalent to a waiver of it; or where by his conduct and neglect, though not waiving the remedy, he has put the*

*other party in a position in which it would not be reasonable to place him if the remedy were afterwards to be asserted. In such cases lapse of time and delay are most material. Upon these considerations rests the doctrine of laches."*

**16.** We have considered the submission made by the learned counsel for the parties. We have also perused the various judgments referred to by the learned counsels in support of their respective cases and the judgment & order dated 24/04/2024 passed by the learned Single Judge in W.P.(C) No. 258/2022.

**17.** The memorandum dated 14/09/2018, was issued by the office of the Commissioner, Nagaland, bringing out the tentative seniority list of all Subedar Major in the VG Organization as on 15/09/2018. The said memorandum was circulated to all the Subedar Majors VG through the Commandant VG Tuensang, the Deputy Commandant VG Mon/Kiphire, the D C & Ex-officio Commandant VG Longleng and ADC & Ex-officio Asstt. Commandant VG Meluri. The Government after, examining the objection raised by the respondent No.7, to the tentative seniority list, issued the memorandum dated 30/11/2018 publishing the final seniority list of all Subedar Major under the VG organization as on 15/09/2018. We have minutely perused the memorandum dated 14/09/2018 as well as the memorandum dated 30/11/2018 and we find that the memorandum dated 30/11/2018 was issued in continuation of the memorandum dated 14/09/2018 and both the memorandums were uniformly circulated to all the Subedar Major in the organization through their respective offices. It is however surprising to note that the petitioner had the knowledge, only of the memorandum dated 14/09/2018 publishing the tentative seniority list, but not the memorandum dated 30/11/2018 publishing the final seniority list. The petitioner has also not been able to explain and satisfy that the two memorandums were not uniformly issued and under different circumstances. We are therefore, unable to accept the submission made by the learned counsel for the petitioner, that the memorandum dated 30/11/2018 publishing the final seniority list of Subedar Major in the VG organization was never circulated or notified, but was made known to the writ petitioner only after the information and the DPC Meeting Minutes dated 15/07/2021 was made available to the petitioner on 03/10/2022, subsequent to the petitioner's

filing the application dated 12/08/2022 under the RTI Act.

**18.** On the notification dated 19/07/2021 issued by the Government of Nagaland, Home Department, Police 'B' Branch promoting the respondent No.7 and two others to the post of Asstt. Commandant, the learned counsel for the petitioner had submitted that, since he is posted in an interior place, he came across the notification dated 19/07/2021 only in the month of February 2022. Such submission has been countered by the learned counsel for the respondents by submitting that one of the promotee namely, Shri. L. John Konyak, prior to his promotion was also serving as Subedar Major at Mon, the same place where the petitioner is also serving as Subedar Major. The learned counsel for the respondents has accordingly submitted that the notification dated 19/07/2021 promoting the respondent No.7 to the post of Asstt. Commandant could not have escaped the notice of the petitioner more so when the petitioner was also highly expecting his promotion to the next higher post of Asstt. Commandant. The learned counsel for the petitioner has not been able to rebut the submission that the petitioner and Shri. L. John Konyak were both serving as Subedar Major under the same establishment of the Deputy Commandant VG Mon prior to the promotion of Shri. L. John Konyak. We therefore, find sufficient force in the submission made by the learned counsel for the respondents and we accordingly reject the submission of the petitioner that the notification dated 19/07/2021 promoting the respondent No.7 came to the knowledge of the petitioner only in the month of February 2022.

**19.** Moreover, even if we are to accept the submission made by the learned counsel for the petitioner, that the notification dated 19/07/2021, promoting the respondent No.7 came to the knowledge of the petitioner only in the month of February 2022, the application seeking for relevant information under the RTI was filed only on 12/08/2022 and the representation seeking revocation of the promotion of the respondent No.7 was filed on 12/09/2022 and no explanation is forthcoming from the petitioner as to why the application dated 12/08/2022 and the representation dated 12/09/2022 was belatedly filed in spite of, the petitioner coming to know of the notification dated 19/07/2021 in the month of February 2022. This is one clear instance demonstrating that, the petitioner was not at all serious, in asserting his

rights against the respondent No.7, but had kept quiet, and had approached the Court belatedly only after there was a considerable delay of about 4 years after the seniority and promotion of the respondent No.7 had crystallized. We are therefore of the view that the petitioner's desperate attempt to redo the seniority of the respondent No.7 and to revoke his promotion cannot be made amenable to judicial review at this late stage.

**20.** In the judgments relied upon by the learned counsel for the petitioner, it has been held that, no period of limitation, has been prescribed for filing writ petition under Article 226 of the Constitution of India and all that the Court has to see is whether the laches on the part of the petitioner is such as to disentitle him to the relief claimed and that each case would depend on its own facts. In the instant case, as we have already observed, the petitioner, has been very casual in asserting his rights and had knowingly allowed the time to pass and failed to satisfactorily explain the delay in challenging the memorandum dated 30/11/2018 publishing the final seniority list of Subedar Major in the VG organization and the notification dated 19/07/2021 promoting the respondent No.7 to the post of Asstt. Commandant VG. We are therefore not inclined to upset the memorandum dated 30/11/2018 publishing the final seniority list of Subedar Major as on 15/09/2018 and the notification dated 19/07/2021 promoting the respondent No.7 to the post of Asstt. Commandant VG and unsettle the settled position, at this belated stage.

**21.** In the case of **State of Madhya Pradesh & Another -versus- Bhailal Bhai & Others**, reported in **AIR 1964 SC 1006**, the Hon'ble Supreme Court has held that the maximum period fixed by the legislature as the time within which the relief by a suit in a civil court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured and the court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the court to hold that the delay is unreasonable.

**22.** In the case of **P.S Sadasivaswamy -versus- State of Tamil Nadu**, reported

in **(1975) 1 SCC 152**, the Hon'ble Supreme Court has held that;

*“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 extra-ordinary 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. The petitioner's petition should, therefore have been dismissed in limine. Entertaining such petitions is a waste of time of the court. It clogs the work of the Court and impedes the work of the court in considering legitimate grievances as also its normal work. We consider that the High court was right in dismissing the appellant's petition as well as the appeal.”*

The proposition of law in the above case, has also been reiterated by the Hon'ble Apex Court in the case of the **High Court of Judicature of Patna -versus- Madan Mohan Prasad & Others**, reported in **(2011) 9 SCC 65**.

**23.** In the case of Malcom Lawrence Cecil D'Souza (supra), the Hon'ble Supreme Court has held that;

*“9. Although security of service cannot be used as a shield against administrative action for lapse of a public servant, by and large one of the essential requirements of contentment and efficiency in public services is a feeling of security. It is difficult no doubt to guarantee such security in all its varied aspects, it should at least be possible, to ensure that matters like one's position in the seniority list after having been settled for once should not be liable to be reopened after lapse of many years at the instance of a party who has during the intervening period chosen to keep quiet. Raking up old matters like seniority after a long time is likely to result in administrative complications and difficulties. It would, therefore, appear to be in the interest of smoothness and efficiency of service that such matters should be given a quietus after lapse of some time.”*

**24.** In the light of the discussions made above and the law laid down by the Hon'ble Apex Court and taking into consideration all the attending facts and circumstances, we

find no infirmity with the judgment & order dated 24/04/2024 passed by the learned Single Judge in W.P.(C) No. 258/2022. The appeal accordingly stands dismissed.

**25.** No order, as to cost.

Sd/-  
**JUDGE**

Sd-  
**JUDGE**

**Comparing Assistant**