

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4644 of 2015**

- Yashwant Sahu, S/o Late Shri Gendram Sahu, aged about 57 years, Occupation-Service presently Posted as Assistant Engineer (CGRRDA), Vikas Bhawan, Raipur, Civil & Revenue, Distt.- Raipur (C.G.)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through – The Secretary Rural Engineering Services, Secretariat Mantralaya, Mahanadi Bhawan, Capital Complex, New Raipur, Distt. Raipur (C.G.)
2. Joint Secretary, Panchayat and Rural Development Department, Mantralaya, Mahandi Bhawan, Capital Complex New Raipur, District Raipur Chhattisgarh
3. Chief Engineer, Development Commissioner Office, Civil Lines Raipur, P.S. Civil Lines, Civil & Revenue District Raipur (C.G.)

---- Respondents

For Petitioner : Shri Sunil Sahu, Advocate.

For Respondents/State : Shri Varun Sharma, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****11/12/2015**

Heard.

(1) The petitioner was considered for promotional post of Assistant Engineer on 10.06.2011 and he was granted promotion on the said post. The petitioner herein filed representation stating that his case ought to have been considered for promotional post from the year 2007, which has not been decided till now and, thus, instant writ petition has been filed.

(3) Fact remains that petitioner was granted promotion with effect from 10.06.2011 and prior to 10.06.2011 he never raised any dispute claiming promotion with effect from 2007 and only after grant of promotion on 10.06.2011. He has now raised the dispute belatedly claiming promotion with effect from 2007.

(4) In the matter of **S.S. Moghe & othres Vs. Union of India & others**¹,

Their Lordships of the Supreme Court have held that the delay in claiming promotion is a valid ground to deny the claim of promotion. Paragraph 23 of the report states as under:

“At this stage, it will be convenient to first dispose of the contentions urged by the petitioners against the validity of the promotions given to respondents Nos. 8 to 67 during the period between 1968 and 1975. In our opinion, the challenge raised by the petitioners against those promotions is liable to be rejected on the preliminary ground that it is most highly belated. No valid explanation is forthcoming from the petitioners as to why they did not approach this Court within a reasonable time after those promotions were made, in case they really did feel aggrieved by the said action of the Department. This writ petition has been filed only in the year 1979, and after such a long lapse of time the petitioners cannot be permitted to assail before this Court the promotions that were effected during the years 1968 to 1975. A party seeking the intervention and aid of this Court under Article 32 of the Constitution for enforcement of his fundamental rights should exercise due diligence and approach this Court within a reasonable time after the cause of action arises and if there has been undue delay or laches on his part, this Court has the undoubted discretion to deny him relief. [See Rabindra Nath Bose v. Union of India (1970) 2 SCR 697 : (AIR 1970 SC 470)]”

(5) Applying the ratio of law laid down by the Supreme Court in the above referred case in the facts of the present case, it is quite vivid that petitioner was granted promotion with effect from 10.06.2011 and prior to 10.06.2011 he never raised any dispute claiming promotion with effect from 2007 and only after grant of promotion on 10.06.2011, he has raised claim claiming promotion from 2007. In the considered opinion of this Court, the writ petition as framed & filed suffers from delay & latches in view of law laid down by the Supreme Court in **S.S. Moghe case** (supra) and, therefore, I do not find any illegality in action on the part of the respondent authorities, who have not considered the petitioner's representation providing promotion to him with effect from the year 2007.

(6) Accordingly, the writ petition fails and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

¹ AIR 1981 SC 1945

