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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4659/2014**

D P SHARMA

..... Petitioner

Through: Mr Yoginder Mishra, Adv.

versus

UNION OF INDIA AND ORS

..... Respondent

Through: Ms Monika Arora, CGSC and
Mr Harsh Ahuja, Adv for R-1

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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06.07.2015

The petitioner is aggrieved by the respondent's rejection of his representation—by letter dated 15.05.2014. He complains of unjust denial of promotion to the post of Superintending Engineer in the Border Roads Organization with effect from 17.09.2001.

The brief facts are that the petitioner, after selection in the recruitment process by UPSC, joined the Border Roads Development Board—a unit of GREF in February, 1986 as Assistant Executive Engineer and subsequently promoted as Executive Engineer (Civil) with effect from 18.12.1995. He was communicated an adverse remark with regard to falling his performance 5 ½ months from 09.10.1998 to 31.03.1999 which led to his ACRs being recorded as 'Good' for the said period. The petitioner's representations were of no avail. His juniors were subsequently promoted to the post of

Superintending Engineer with effect from 17.09.2001 by virtue of a promotion order made in 2008. The petitioner's grievance is that some of his juniors were considered even though they did not fulfil the basic eligibility criteria, i.e., did not fulfil the bench mark of possessing 5 ACRs reflecting 'Very Good' performance for the previous five years. The petitioner has approached this Court on an earlier occasion by filing W.P.(C) No. 7576/2013 which was disposed of with a direction that his representation be taken into consideration. Petitioner has placed on record the representation dated 11.11.2013—which presumably was the one preferred by him before approaching this Court earlier. It is evident from the factual matrix that the petitioner's cause of action arose sometime in September, 2008 when his juniors were allegedly wrongly promoted even though he too fulfilled the same bench mark and was wrongly excluded. His grievance is that some of them, like him, did not possess the five 'Very Good' ACRs necessary for being promoted. However, the petitioner did not agitate his grievance and appears to have approached the respondents with a representation and did nothing more. He woke up and approached the Court in 2014 which led to a direction for consideration of his representation. The belated claim—even if it were to be considered from 2014, i.e., after 6 years of cause of action, cannot, in these circumstances, be entertained.

In conclusion, as we draw, that the proceeding is barred by delay and laches, we are also influenced by the fact that any consideration or direction in line with the petitioner's claim would inevitably have a cascading effect on the career prospects of other

officials, who have not been impleaded. Their right to the post has been settled with effect from 2001; so also has their seniority for the promotional grade. The mere representations do not entitle a litigant to approach the Court belatedly complaining that the official respondents did not respond either way.

For the above reasons, the petition is dismissed on the ground of delay and laches.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

JULY 06, 2015

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