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

+ W.P.(C) 7186/2015, CM 13207/2015

% *Judgment dated 31st July, 2015*

ASHOK KUMAR VERMA Petitioner

Through: Mr. Sanjiv Joshi, Advocate

versus

BHARAT SANCHAR NIGAM LIMITED & ANR Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE G. S. SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

CM 13207/2015 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of

WP(C) 7186/2015

1. Challenge in this writ petition is to the order dated 28.04.2014 passed by the Central Administrative Tribunal (hereinafter referred to as 'the Tribunal').

2. The case of the petitioner as set up before the Tribunal was that had he been relieved within the stipulated period of 40 days as mentioned in the order dated 24.06.2002 promoting him and others from the post of JTO to the post of TES Grade B, he would have

become entitled for the STS Scale with effect from August, 2011. Petitioner accordingly sought a direction to the respondents to count his seniority in the post of TES Grade B with effect from August, 2011 and to grant all consequential benefits including pensionary benefits.

3. In this case, petitioner was working as JTO, he was promoted to the post of TES Grade B vide the respondents order dated 24.06.2002. In the aforesaid order, there was a stipulation that the officers who are promoted are required to join their promotional assignment within a period of 40 days and the CMD/CGM concerned should ensure that the station of posting orders in respect of officers are issued in time to join their promotional assignment and the officers shall be relieved within the time period of 40 days from the date of issuing of the promotion order. It is also the case of the petitioner that in spite of aforesaid stipulation, he was not relieved on time on the ground that no substitute was posted in his place. Petitioner has also stated that he made a representation on 24.07.2002 requesting respondent no.2 for his immediate relieving for joining in the promotional post but he was relieved only after a period of 87 days and he could assume charge of TES Grade B in the office of the GMTD, GB Nagar, Noida only on 31.10.2002. Further, the delay in relieving him had a great impact in his service which he did not realize in beginning. However, when time bound promotion scheme was introduced, his first promotion was delayed whereas the persons junior to him have got their respective seniority, promotion and financial benefits well within time. Petitioner, accordingly, made a representation on 16.07.2009 for counting his promotion to the post of

TES Grade B from the aforesaid date his promotion, as in the case of his juniors. The respondents did not accept his request. It is also the case of the petitioner that when the second time bound promotion was due in August, 2011, he made another representation. The same was also rejected. Petitioner retired from service on 31.08.2011 without getting the benefit of the first and second time bound promotions from the due date. Accordingly, petitioner approached the Tribunal seeking a direction to the respondents to count his seniority in TES Grade B with effect from August, 2002 and the consequential benefits of STS scale with effect from August, 2011 and the revision of the pension which was dismissed.

4. Reply was filed by the respondents before the Tribunal refuting the submissions made by the petitioner. The stand of the respondents was that the reason for delay was his own making. Respondents stated that on receipt of his promotion order dated 24.06.2002, petitioner made a representation on 02.07.2002 to the Chief General Manager Telecom (UP) West Circle, Dehradun to change his posting to General Manager Telecom District Ghaziabad. Accordingly, the Assistant General Manager (A) in the office of the General Manager Telecom District Ghaziabad where he was working forwarded the said representation to the Assistant General Manager, Dehradun vide his letter dated 04.07.2002. However, his request was not acceded to.

5. Counsel for the petitioner has contended that the order passed by the Tribunal is bad in law and the same is liable to be set aside. It is submitted that the order is arbitrary and the Tribunal has failed to

appreciate that on account of delay, right of the petitioner to promotion was affected.

6. We have heard learned counsel for the petitioner and we find no ground to interfere with the order passed by the Tribunal. The Tribunal has rejected the OA firstly on the ground that petitioner himself was responsible for the delay in joining. The Tribunal has reached the finding that the delay in relieving was mainly due to pendency of his representation to change his place of posting. The Tribunal has also rejected the OA on the ground of limitation. There is no explanation as to why the petitioner approached the Tribunal in the year 2014 when the order relates back to 24.06.2002. There is no explanation for delay even before this court. Section 21 of the Administrative Tribunal Act has fixed the period of limitation of one year. We find that no objection was raised by the petitioner for the alleged delay and merely filing of representation and that too beyond the period of limitation cannot extend limitation. On the merits of the matter, the Tribunal has held that the delay was caused as the petitioner had made a representation for change of posting.

7. Resultantly, we do not find any infirmity in the impugned order passed by the Tribunal. Writ petition stands dismissed.

G. S. SISTANI, J.

SANGITA DHINGRA SEHGAL, J

JULY 31, 2015

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