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

+ **W.P.(C) 9434/2015**

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Decided on : 06.10.2015

PRAKASH CHANDRA SINGH Petitioner

Through: Mr.Anup Kumar and Mr.Shekhar
Prasad Gupta, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through: Mr.Manish Mohan, CGSC and
Ms.Shreya Sinha, Government
Pleader.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

MS. JUSTICE DEEPA SHARMA (OPEN COURT)

C.M.No.22041/2015 (for condonation of delay)

For the reasons mentioned in the application, delay in re-filing the writ petition is condoned.

The application stands disposed of.

W.P.(C) 9434/2015

1. The petitioner was appointed as a Sub-Inspector (Overseer) in Indo-Tibet Border Police Force (ITBP) on 30.03.1988. On 03.06.1991, he applied for the post of Inspector/Subedar (Overseer) through an open competition. He was selected and he submitted his technical resignation on

03.12.1991. After he joined the services as an Inspector with ITBP, the seniority list of Inspectors was issued on 01.07.1997 wherein he was shown as Sl.No.15. He made a representation on 31.07.1997 which was dismissed by the respondent on 04.09.1997. Another seniority list dated 31.07.2000 was issued wherein he was shown at Sl.No.12 and in the seniority list of Inspectors dated 31.01.2003, he was shown at Sl.No.8. He made a representation dated 03.04.2003 which was rejected on 10.09.2003. The seniority list was again issued on 01.01.2005 wherein he was shown at Sl.No.6 and in the in the seniority list dated 01.01.2007, he was shown at Sl.No.2. He was promoted as regular Assistant Commandant (Engineer Cadre) on 30.05.2007. Seniority list of Assistant Commandant was issued on 01.01.2008 wherein he was shown at Sl.No.19 and in the seniority list for the year 2009 issued on 01.01.2009 he was shown at Sl.No.17. Against this he made a representation dated 13.03.2009 which was not accepted by the respondents. A seniority list dated 31.07.2010 was issued wherein he was shown at Sl.No.8. It is submitted that he was promoted to the post of Deputy Commandant on 09.05.2012 and in the seniority list dated 01.01.2014 of Deputy Commandant he was shown at Sl.No.13. He made a representation dated 17.11.2014 which was rejected in March, 2015. He again challenged

his seniority as Deputy Commandant and made a representation dated 02.07.2015 which was rejected on 07.07.2015. It is submitted that his seniority list as an Inspector had been wrongly prepared and his seniority was not determined at that time as per the rules and regulations applicable. It is prayed that the seniority list issued by the respondents in the year 1997 and on subsequent dates be quashed and his seniority be re-fixed/rectified as of Inspector (Overseer) in ITBP issued on 01.07.1997 and the subsequent seniority lists issued on the basis of the seniority list dated 01.07.1997 be also rectified and the respondents be directed to issue corrected seniority lists.

2. The petitioner has claimed correction in the seniority list of the year 1997 wherein his seniority was fixed at Sl.No.15 on his joining the ITBP as an Inspector through an open examination. As is clear from the above facts after 01.07.1997, the respondents had issued several seniority lists dated 31.07.2000, 31.01.2003, 01.01.2005, 01.01.2007, 01.01.2008, 01.01.2009, 31.07.2010 & 01.01.2014. It is pertinent to mention here that pursuant to those seniority lists, the petitioner was given two promotions, first as regular Assistant Commandant on 30.05.2007 and then as Deputy Commandant on 09.05.2012. This shows that the respondents had given the promotions to

various personnel including the petitioner based on such seniority lists. Although the petitioner had the occasion to challenge the said seniority list immediately when it was circulated, he did nothing except making one representation dated 31.07.1997 which was rejected on 04.09.1997; a second representation dated 03.04.2003 after the circulation of seniority list dated 31.01.2003 was later made. This representation was also rejected on 10.09.2003. His third representation was against the seniority list of Assistant Commandant dated 01.01.2009 which was also rejected. This clearly shows that the petitioner had not approached this court within reasonable time. He is challenging the seniority list of the year 1997 after almost 18 years. The claim of the petitioner is highly belated and no explanation is coming forward what to say a reasonable explanation for this delay. All the seniority lists showing the exact position of the petitioner had been circulated and were in the knowledge of the petitioner. He however chose to keep quiet. The present writ petition suffers with delay and laches. The petitioner had contended that he had been making the representations and therefore it cannot be said that he had not been challenging his seniority. It is a settled position of law as held by the Supreme Court in case of ***S.S.Rathore vs. State of Madhya Pradesh*** AIR 1990 SC 10 that repeated

representations does not in any manner defeat the operation of doctrine of laches.

3. It is also pertinent to note here that any change in the list issued in the year 1997 would have the effect of disturbing the subsequent seniority lists issued by the respondents all these years and would also have the effect of disturbing not only the seniority of several personnel but also promotions based on such seniority, which in turn was premised on the seniority list dated 31.07.1997. Intervention therefore would be unjustified as it would jeopardize settled seniority positions of third parties.

4. In view of the above discussion, we are of the opinion that the petition suffers from delay and laches. It is consequently dismissed.

DEEPA SHARMA
(JUDGE)

S. RAVINDRA BHAT
(JUDGE)

OCTOBER 06, 2015
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