

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1376 of 2016

- M.B. Khare S/o Late Shri M.P. Khare, Aged About 66 Years Retired Assistant District Excise Officer, R/o 27/246, New Shanti Nagar, Raipur, Tahsil & District Raipur, (Chhattisgarh)

---- Petitioner

Versus

1. State of Chhattisgarh Through The Secretary, Through The Department Of Finance & Planning Department, Commercial Tax (Excise), Mahanadi Bhawan, Mantralaya, New Raipur, Tahsil And District Raipur, (Chhattisgarh)
2. The Excise Commissioner, Raipur, District Raipur, (Chhattisgarh)
3. Chhattisgarh Public Service Commission, Through The Secretary, Shankar Nagar, Raipur, (Chhattisgarh)

---- Respondents

For Petitioner : Mr. Jitendra Kumar Gupta, Advocate
For State/ Respondents : Mr. R.K. Gupta, Dy. Advocate General

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

05/07/2016

Heard.

1. This is petition filed by the petitioner seeking directions to the respondents to grant promotion on the post of District Excise Officer, with all consequential benefits, from the date when the juniors to the petitioner have been promoted in the meeting of Departmental Promotion Committee (for short, 'DPC') held in the year 2011. Prayer is also made for direction to revise the pension.
2. Learned counsel for the petitioner submits that though the petitioner was entitled to be considered for promotion to the post of District Excise Officer, the respondents did not hold any DPC despite vacancy of the District Excise Officer available ever since 2007. The petitioner was enjoying very high position in the

seniority list and if the DPC would have been held in time, he would have been considered for promotion. The petitioner thereafter retired on 30.04.2010 without consideration. In the year 2011, some of the officers, who were junior to the petitioner, were considered for promotion and promoted. Representations were filed by the petitioner and finally when the representations were not decided, this petition was filed.

3. On the other hand, learned counsel for the State submits that irrespective of the merits of the case, this petition suffers from gross delay and latches. The cause of action arose way back in the year 2008 as is mentioned in para 8.3 and 8.4 of the petition. The petitioner, at that time, did not take recourse to any remedy under the law. Finally on 30.04.2010, he retired from service on attaining the age of superannuation. Six years thereafter, he did not do anything and now, he is seeking direction.
4. This petition suffers from unexplained gross delay and latches. Even according to the petitioner, cause of action arose in the year 2007-08 and till retirement, no legal remedy was taken. Even after retirement, the petitioner did not file any petition in the year 2011. According to the petitioner, some of the juniors were promoted in the year 2011, even then, no legal remedy was taken. After six years of the retirement, now this petition has been filed. In the matters of consideration of promotion, an employee is required to be vigilant and if he has any claim for promotion, he should approach the Court of law expeditiously. The petitioner has approached this Court after a long delay of about 8 years that too with intervention of his retirement way back in the year 2010,

therefore, no case for interference is made out for exercising extraordinary jurisdiction under Article 226 of the Constitution of India.

5. Accordingly, the petition is dismissed only on the ground of delay and laches.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Chandra