

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Writ Petition No.17522 of 2017 (O&M)
Date of Decision: August 08, 2017

Kailash Kumar

...Petitioner

Versus

Central Administrative Tribunal, Chandigarh Bench & others

...Respondents

**CORAM: HON'BLE MR.JUSTICE AJAY KUMAR MITTAL, JUDGE
HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE**

Present: Mr.Kamaldip Singh Sidhu, Advocate,
for the petitioner.

AMIT RAWAL, J.

The petitioner being unsuccessful before the Central Administrative Tribunal, Chandigarh Bench (for short "CAT") in assailing the order dated 8.5.2014 (Annexure A-1), which was passed on the directions dated 4.2.2014 (Annexure A-15) rendered in O.A.No.1415-CH of 2012 and M.A.No.1312 of 2012, has approached this Court by invoking the provisions of Articles 226/227 of the Constitution of India.

Mr.Kamaldip Singh Sidhu, learned counsel representing the petitioner submitted that on 10.1.2002, the petitioner joined the respondents-department as Lower Division Clerk (LDC) and vide order dated 31.8.2006 (Annexure A-7) was confirmed. On 10.1.2007, as per the Departmental Rules, the petitioner became eligible for promotion to the post of Upper Division Clerk (UDC). The respondents-department made the

promotions with effect from 1997 to November, 2010, but did not disclose as to how many persons were promoted during the aforementioned period. In this regard, the petitioner submitted representation dated 15.6.2009 (Annexure A-12) for promoting him in the category of disabled persons by giving reservation to the physically handicapped persons at Roster Points 22, 67 and 100. Vide order dated 31.12.2010 (Annexure A-3), the respondents promoted 55 LDCs to the post of UDC without considering and adopting the roster points and the persons junior to the petitioner were promoted. Against the order (Annexure A-3), the petitioner submitted detailed representations dated 11.10.2012 and 30.11.2012 (Annexures A-13 and A-14). In the meantime, he also approached the CAT by challenging the order in OA No.1415-CH of 2012, which was disposed of vide order dated 4.2.2014 (Annexure A-15) with a direction to the respondents to consider the representation of the petitioner for the purpose of promotion to the post of UDC. Even a Misc.Application (Annexure A-18) filed by the petitioner was also disposed of on 17.9.2014, but the department did not take any action despite repeated requests as indicated in the representation dated 1.8.2015 (Annexure A-2).

It has next been argued that as per impugned order dated 8.5.2014 (Annexure A-1), the respondents rejected the case of the petitioner for promotion as UDC. Aggrieved against the said order, the petitioner preferred O.A.No.060/00544/2016, which has been dismissed in limine on the ground of limitation. No doubt, vide order dated 28.12.2016 (Annexure A-21), the petitioner has now been promoted as UDC, whereas he had become eligible w.e.f. 31.12.2010 when 55 LDCs were promoted. It was, thus, urged that the petition was not beyond limitation as in the meantime,

the petitioner had filed a contempt petition, which was disposed of on 17.9.2014 giving liberty to him to assail the order dated 8.5.2014 and, therefore, the limitation would commence from 17.9.2014.

It was further contended that the order of the CAT dismissing the petition in limine is not sustainable as the petitioner had made a representation dated 1.8.2015 (Annexure A-2) against the order dated 8.5.2014, therefore, filing of the present Original Application on 3.6.2016 cannot be said to be beyond the period of limitation.

We have heard the learned counsel for the petitioner, appraised the paper book and are of the opinion that the view expressed by the CAT in dismissing the petition in limine by holding it to be barred by limitation is correct and justified.

The Original Application was not accompanied by an application under sub-section (3) of Section 21 of the Administrative Tribunals Act, 1985 seeking condonation of delay. Filing of the representation on 1.8.2015 would not extend the period of limitation to bring it within the period of one year as the Original Application is stated to have been filed on 3.6.2016, whereas order impugned before CAT is dated 8.5.2014.

There was no occasion for the petitioner to submit representation as he was aware of the order dated 8.5.2014. The order dated 17.9.2014 (Annexure A-18) passed in the contempt petition also disclosed the factum of petitioner's promotion. At best, even if the limitation is taken from 17.9.2014, the Original Application could have been filed within a period of one year as indicated above, but the same has been preferred on 3.6.2016 without any application seeking condonation of delay.

In view of the above reasons, we do not find any illegality or perversity in the impugned orders. Resultantly, while upholding the order under challenge, writ petition stands dismissed.

**(AJAY KUMAR MITTAL)
JUDGE**

**(AMIT RAWAL)
JUDGE**

**August 08, 2017
ramesh**

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No