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

+ **W.P.(C) 1045/2017**

D.C. MEHANDIRATTA

..... Petitioner

Through Mr. S.N. Sharma, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondent

Through Mr. Naresh Kaushik, Advocate for
UPSC.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

07.02.2017

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The petitioner herein, an officer of Indian Information Service, Group 'A' had retired from the post of Senior Grade on 31st May, 2005.

2. Seven years after retirement, in 2012, the petitioner made a representation that he should have been considered for promotion to Junior Administrative Grade in 2005 by convening a Departmental Promotion Committee (DPC).

3. The petitioner in 2013 filed OA No. 3382/2013 praying for grant of retrospective promotion to the Junior Administrative Grade from 2005. Another prayer made was for quashing of impugned order dated 12th September, 2012 passed by the respondents. The third prayer made was to declare all nineteen DPC meetings held between 1987 to 2005 after the vacancies had arisen in different cadres as irregular being in contravention

of the applicable rules, DOPT's OMs dated 10th April, 1989 and 8th September, 1998.

4. In our opinion, the Tribunal was justified and right in dismissing the said OA as clearly barred by limitation. The time gap and delay between 2005 and 2012 is apparent and of nearly seven years.

5. The submission that the cause of action arose when the petitioner's representation dated 16th July, 2012 was rejected vide communication dated 12th September, 2012, has to be rejected. The reply dated 12th September, 2012 would constitute and resurrect a dead cause of action, which had already become barred by limitation. A reply to an already belated representation made seven years after retirement, which would not in any way prop up a stale and barred by limitation cause of action.

6. The law prescribing limitation periods in the public interest, as evidence and material dissipate with passage of time and are difficult to collate, ascertain and establish. The respondent had pleaded that vacancies for the years 2002-03 to 2005-06 could not be filled up because of litigations pending in different courts. The respondents when asked to furnish details and documents were unable to produce documents etc. The delay and time gap of seven years could be the reason.

7. The petitioner, it is submitted, if promoted to the Junior Administrative Grade would be entitled to enhanced pension and hence the cause of action would be continuing. The submission has to be rejected in the matrix of the present case for the petitioner must first establish his right to promotion in the Junior Administrative Grade. If this claim is barred by limitation and cannot be examined, the contention or claim for enhanced pension would fail. The petitioner is primarily seeking direction for holding

of a DPC for the year 2005. This is not a case of wrong fixation or error in the pension payment order, which can be corrected and thereupon enhanced pension can be paid. This is also not a case of continuing cause of action. The writ petition has no merit and is dismissed.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

FEBRUARY 07, 2017
VKR/NA