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

+ **W.P.(C) 7458/2017**

ASHISH KUMAR

..... Petitioner

Through: Mr. Amit Kumar Pathak, Mr. Manan
Khera and Mr. Bhakti Vardhan Singh,
Advs.

versus

GAIL (INDIA) LIMITED

..... Respondent

Through: Mr. Sanjeev Sagar and Mr. Navin
Arora, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **25.08.2017**

CM. No. 30752/2017 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 7458/2017

The present petition has been filed by the petitioner with the following prayers:

“Therefore, on the facts and in the circumstances of the case it is most humbly and respectfully prayed that this Hon’ble Court may graciously pleased to:

A) *Issue a writ of mandamus to the Respondent to change the grade of appointment of Petitioner to E2 from the date of appointment / joining and accordingly provide consequential benefits.*

B) Pass any such further orders which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in the interest of justice."

It is the case of the petitioner that pursuant to an advertisement issued on January 25, 2005, he was appointed as Executive Trainee in (E1 Grade) on probation for a period of one year on 19th June, 2006. After completing his training he was absorbed as Sr. Engineer (Electrical) in (E2 Grade) on 19th June, 2007. It is also his case that respondent issued an intra-office memo dated 27th January, 2010 whereby the batch of 2009 has been placed in the minimum scale of E2 Grade instead of E1 Grade. In other words, on completion of probation, the officers of the batch of 2009 were given the grade of E2 from the date of their appointment as Executive Trainee. The petitioner seeks a similar benefit.

Learned counsel for the petitioner has drawn my attention to the representation by the Association of the GAIL Officers at Page 117 of the Paper Book and the Minutes of the Meeting of Corporate Management CWC/GOA dated 12th January, 2008 to contend that the issue was being examined by the respondent for a considerable period of time. He concedes to the fact that on May 4, 2011, the claim of the petitioner was rejected (Page 78 of the petition). Similarly, further rejection was given on June 12,

2012 (Page 79 of the petition). It is also conceded by the learned counsel for the petitioner that the petitioner has got the promotion to E3 Grade in the year 2013 and E4 Grade (Manager) in the year 2017. The submission of the learned counsel for the petitioner on merit is by referring to Page 66 of the paper book, from where it is noted an Officer appointed in the batch of 2009 would get promotion after 4½ years as against 6 years in the case of the petitioner, including, other officers of the batch of 2006.

On a specific query to the learned counsel to the petitioner, whether in view of the benefit given to the batch of 2009 any prejudice has been caused to the petitioner inasmuch as the batch of 2009 has got seniority over and above the petitioner or superseded the petitioner in promotion, the answer was in the negative. If that be so, any effect on the chances of promotion, cannot be a ground to seek similar benefit as given in terms of intra-office memo dated 27th January, 2010. That apart, it is noted that the rejection of the claims of the petitioner was on 4th May, 2011 and June 12, 2012 respectively. Six / five years have elapsed thereafter. The plea of the learned counsel for the petitioner that petitioner has been continuously representing thereafter does not appeal to the Court as it is a settled law, continuous representation shall not extend the limitation or is not a

justifiable explanation for delay and latches. That apart, it is conceded by the learned counsel for the petitioner that the batch of 2006 is of 100 officers. If the claim of the petitioner is allowed, the other 99 would also seek the same benefit. In any case no prejudice has been caused to the petitioner by the intra-office memo of 27th January, 2010. The benefit was confined to one year only. It is a decision in the nature of a policy, which the Court cannot interfere with. I find no merit in the petition. The same is dismissed.

V. KAMESWAR RAO, J

AUGUST 25, 2017/jg