

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2697 of 2008

Sadananda Udyawar S/o Babu Naik, Presently Working As Dy.
Commandant, Central Industrial Security Force, K.S.T.P.S., Pragati
Nagar, Korba (CG) ---- **Petitioner**

Versus

1. Union Of India, Through its Secretary, Government of India, Ministry of Home Affairs, New Delhi
2. The Director General Central Industrial Security Force Head Quarter, 13, CGO, Complex, Lodhi Road, New Delhi ---- **Respondents**

For Petitioner	:	Mr. Alok Bakshi, Advocate
For Respondent/Union of India	:	Mr. Rajkumar Gupta, Asstt. S.G.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

14/05/2018

Heard.

1. The petitioner has filed this petition seeking direction to the respondents to award promotion to the petitioner on the post of Assistant Commandant with effect from 1989, to the post of Deputy Commandant w.e.f. 1995 and as Commandant w.e.f. 10th of October 2002 and Senior Commandant w.e.f. December, 2005.
2. The petitioner was inducted in the services of the respondent as Sub-Inspector in 1976 followed by promotion as Inspector in the year 1983. In the year 1989, the petitioner suffered supersession when as many as 7 juniors were promoted as Assistant Commandant. Since then, the petitioner's grievance was not redressed though he was later on, promoted as Assistant Commandant in the year 1982 and then as Deputy Commandant in the year 2000.
3. As the pleading goes, promotions of those juniors who were earlier promoted as Assistant Commandant in the year 1989, continued on higher post of Deputy Commandant and Commandant in subsequent orders. The petitioner's grievance continued in this manner when he was receiving

promotion belatedly and those who were junior to him as Inspector and promoted earlier, kept on receiving the benefit of promotion to the higher post from time to time. The petitioner kept on making representation but then, never filed any petition before this Court ventilating grievance against his supersession way back in the year 1989 and subsequent promotions of his junior earlier to the petitioner. This Court also finds that even when the petitioner was belatedly promoted as Assistant Commandant in the year 1982, the petitioner did not approach this Court within a reasonable time. Eight years after the petitioner, on the basis of his promotion as Assistant Commandant in 1982, was finally promoted as Deputy Commandant in the year 2000. Thus, the petitioner suffered supersession continuously by those who were earlier promoted and superseded the petitioner in the year 1989.

4. Though learned counsel for the petitioner sought to convince this Court by submitting that all through the period since 1989, till filing of the present petition, juniors of the petitioner were being promoted to the higher ladders in the services, what is found by the Court is that the petitioner had suffered supersession way back in the year 1989. The petitioner's grievance therefore related back to 1989. This petition came to be filed as late as in the year 2008. The grievance relating to delayed promotion of the petitioner in the year 1982 and 2000 were also not ventilated before this Court within a reasonable time.

5. Therefore, there is considerable force in the stand taken by the learned counsel for the respondent that the irrespective of merits of the case, the petitioner's claim for promotion from due date i.e. when the juniors were promoted as Assistant Commandant in 1989 and all other claims consequential to this first claim suffers from delay and laches.

6. Whatever may be the merits of the case, one who approaches the writ Court is required to establish his promptness in seeking relief from the Court by approaching it within a reasonable time. In matters relating to claim for promotion and seniority, there has been abundance of authority to settle the legal position that such claims are to be raised within a reasonable time. In cases, where there is delay, it is required to be satisfactorily explained. The other settled legal position is that it is not the length of the period but the explanation given for delay in filing petition which is required to be examined. When in the instant petition, delay is apparent, the explanation ought to be such as to entitle the petitioner to seek indulgence of the writ Court. Except making representation, there is no other explanation offered

by the petitioner. Even if it were to be assumed that the petitioner, after having been granted promotion on the post of Deputy Commandant in the year 2000, acquired fresh cause of action to raise an issue of grant of seniority as Assistant Commandant since 1989, this petition was filed after eight years thereafter. This delay of eight years is also not satisfactorily explained.

7. The return of the respondent show that the criteria for promotion was merit and the petitioner was superseded on comparative merit assessment. He was not found fit for promotion as commandant also.

8. Therefore, only on the ground of delay and laches, the petitioner does not seem to be entitled to any indulgence. The petition is dismissed as barred by delay and laches.

Sd/-
(Manindra Mohan Shrivastava)
Judge