

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO. 7352 OF 2016

Shri Satish Waman Rajhans

... Petitioner

Versus

The Hon'ble Principal District & Sessions
Judge, Nashik

... Respondents

Mr. Sanjaykumar Khairnar for the petitioner.

**CORAM : SHANTANU KEMKAR &
NITIN W. SAMBRE, JJ.**

DATE : JUNE 08, 2018

P.C.:

Petitioner claims that he was appointed on the post of Senior Clerk in the year 1992. According to him, he was eligible for the post of Assistant Superintendent in the year 1995 but he was not promoted at that time and was promoted in the year 2006 on the said post of Assistant Superintendent. Upon attaining the age of superannuation, he retired from the service on 31.3.2014. Seeking following reliefs, the petitioner has approached this court by filing this petition under article 226 of the Constitution of India.

“(a) The relevant papers with respect to all gradation Lists from the year 1995, seniority, promotional orders and other concerned record be called from the Establishment Branch of Hon'ble District and Sessions Court, Nashik be

please be called for Your Honour's kind perusal, verification and scrutiny. The Petitioner was illegible and legally necessary promoted as cost of Asst Superintendent as per this service record and confidential report made in his service book and his overall services rendered as a Senior Clerk from 1995 and petition was not granted the necessary promotion for which he was liable from his service record as per Civil Manual Chapter 31, para 577 and 580 and therefore, a rule, order, direction or rule of manners be issued in favour of petitioner with specific direction of respondent no.1 to promote a petitioner as a Asst. Superintendent from 1995 till his retirement and he be allowed to have benefit of promotional benefit of that post with the back wages and other benefits so increase pension pay fixation and other monetary benefits which part and parcel i.e. Promotion of Asst. Superintendent.

(b) Leave may please be granted to the petitioner to amend, add, alter and modify the petition in respect of any point or issue if noticed as the subsequent stage of hearing of the petition Hon'ble High Court may please be called for relevant record and papers of the gradation list mentioned by the District Judge Nashik from the year 1995 including the list of Seniority of employees, the promotion order of District Judge Nashik, 1995 onwards, Hon'ble High Court may also called for any other relevant documents taking the promotion of petitioner and may passed any just and suitable orders, rule direction on a writ of mandamus and any other orders so as meet and of justice."

2. Having gone through the averments made in the petition and having considered the submissions made by the learned counsel for the petitioner, we are of the considered view that the petition deserves to be dismissed on the ground of delay and laches. Petitioner claims that he ought to have been promoted in the year 1995. However, he was not promoted in the year 1995 and

his juniors were promoted in the circumstances, he ought to have approached the court immediately in the year 1995 itself. However, he kept silence and accepted the promotion which was made in his favour in the year 2006. Thereafter also, nothing was done except filing of the representations after retirement on 29/12/2015 and 5/2/2016 before the respondent which suffered rejection on 10/02/2016 and only thereafter the petitioner had filed this petition. It is well settled that challenge regarding promotion should be made within a reasonable time. Petitioner wants to disturb the seniority after long lapse of time after his retirement which cannot be done in this petition.

3. We also find that the petitioner's monetary claim is also barred by the limitation. In the circumstances, we decline interference in this petition on the ground of delay and laches.

4. The petition is accordingly dismissed.

(NITIN W. SAMBRE, J.)

(SHANTANU KEMKAR, J.)