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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 978/2017**

SHAM KAPOOR

..... Petitioner

Through: Ms. Saahila Lamba, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Sanjeev Sabharwal, Senior Govt.
Counsel for UOI.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE SANJEEV NARULA

ORDER
28.11.2018

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1. The Petitioner has come to this Court seeking a direction to the Respondents to re-fix his seniority in the rank of Deputy Commandant (DC), BSF with respect to 29th October 1991 i.e. the date when the Departmental Promotion Committee (DPC) held the Petitioner to be unfit for promotion in the rank of DC and to grant him all consequential benefits on basis of said re-fixation of seniority.

2. When asked why the Petitioner chose to wait for 26 years to file the present petition, learned counsel for the Petitioner submits that two of the Petitioner's juniors, one Mr. Sumer Singh and another Mr. Rizvi were granted their promotions as DC retrospectively from 29th October 1991. Mr. Sumer Singh got it after he approached this Court in W.P.(C) 558/1994

which came to be decided on 9th May 2012 and this order was implemented in his case in 2013. As far as Mr. Rizvi is concerned, it is pointed out that on his representation in 2014, the Respondents' re-fixed his seniority from the aforementioned date as DC.

3. Learned counsel for the Respondents points out that this very Petitioner had approached the Jammu & Kashmir High Court with writ petition being SWP No. 2025/2000 where his prayer was concerning his seniority as DC with effect from the year 1992. It is pointed out that even at that stage, the Petitioner did not choose to question the denial to him of seniority in the post of DC with effect from 29th October 1991.

4. The Court is not satisfied with the explanation put forth by the Petitioner for not coming to this Court earlier. It is noted that Mr. Sumer Singh agitated the issue of his seniority in the post of DC within 3 years of the DPC being held. It is another matter that his writ petition came to be decided only after 18 years by this Court. Therefore, Mr. Sumer Singh cannot be said to have slept over the issue.

5. As far as the Petitioner is concerned, having already gone to the Jammu & Kashmir High Court concerning his seniority in the post of DC way back in 2000, there was no reason why he would not ask in that petition itself for his seniority in the post of DC to be fixed from 29th October 1991. It appears that the Petitioner woke up only when Mr. Sumer Singh and Mr. Rizvi were granted their respective seniority as DC from 1991 onwards.

6. In the circumstances, it must be taken that the petitioner had given up his claims to seniority as DC from 1991 onwards, and was satisfied with agitating his claim for seniority in the said post from 1992. It is not possible to accept the plea of the petitioner that 26 years after the DPC, this Court should entertain his plea for fixing his seniority as DC from 1991 onwards.

7. The petition is accordingly dismissed on the ground of laches.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

NOVEMBER 28, 2018
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