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

+ W.P.(C) 3470/2018 & CM Nos.13660-61/2018

R D KASHYAP

..... Petitioner

Through: Ms.Zubeda Begum & Ms.Sana
Ansari, Advocates

versus

UNION OF INDIA & ANR

..... Respondents

Through: Ms.Shiva Lakshmi, CGSC with
Mr.Siddharth Singh & Mr.Ruchir
Ranjan Rai, Advocates for R-1 & R-2

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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10.04.2018

1. The petitioner is aggrieved by the judgment dated 13.09.2010, passed by the Central Administrative Tribunal in O.A. No.2844/2010 whereunder he had prayed for issuance of directions to the respondents to grant him promotion to Junior Administrative Grade (JAG) in the pay scale of ₹12,000-375-16,500, w.e.f. July, 2008 with all consequential benefits including arrears of pay and for grant of non-functional upgradation in the pay scale of ₹37400-67000 with grade pay of 8700 w.e.f. 01.07.2008 with all consequential benefits including difference of pay and pension and for refixation of his pension corresponding to the up-gradation of the pay-scale w.e.f. 01.07.2008.

2. By the impugned judgment dated 13.09.2010, the O.A. filed by the petitioner was dismissed *in limine* with the observation that he was not able to demonstrate that anyone junior to him had been granted JAG before his superannuation and further, that he had not even been promoted to JAG at

the time of his retirement. Therefore, the question of grant of non-functional selection grade (NFSG) to him, would not arise. The petitioner elected not to challenge the impugned judgment dated 13.09.2010 by filing a writ petition in the High Court. Instead, after waiting for five years, the petitioner filed R.A. No.131/2015 before the Tribunal for seeking review of the judgment dated 13.09.2010, that came to be dismissed vide order dated 11.07.2017, with the observation that he had failed to satisfactorily explain the delay in approaching the Tribunal for seeking review of the judgment dated 13.09.2010.

3. Aggrieved by the aforesaid order, the petitioner has filed the present petition. Ms.Zubeda Begum, learned counsel for the petitioner submits that after the impugned judgment was passed, the Ministry of Corporate Affairs, Government of India had issued OM dated 03.07.2014 on the subject of “Non-functional upgradation (NFU) to the retired eligible officers of ICLS in the pay scale of Junior Administrative Grade (JAG) and Senior Time Scale (STG)” wherein the petitioner’s name had featured at serial No.7 of the list of the officers to whom approval was granted for extension of the NFU benefits.

4. Learned counsel submits that though the petitioner has been granted the NFU benefits w.e.f. 01.04.2009, the respondents have not granted him the benefit of JAG when as per him he had become entitled to the same in the year 2008.

5. We are of the opinion that if he was aggrieved by the judgment dated 13.09.2010, the petitioner ought to have approached the High Court for relief which he elected not to do, thereby missing the bus at that time. The petitioner did not even seek legal recourse when a fresh cause of action had

arisen in his favour on issuance of OM dated 03.07.2014. Instead, he proceeded to file a misconceived application for seeking review of the judgment dated 13.09.2010, which was rightly dismissed by the Tribunal vide order dated 11.07.2017, on the ground of limitation.

6. No satisfactory explanation has been offered for the inordinate delay of 8 years in filing the present petition. Accordingly, the present petition is dismissed as hopelessly barred by delay and laches.

7. At this stage, Ms.Zubeda Begum, learned counsel for the petitioner states that the petitioner reserves his right to pursue his legal remedy against the OM dated 03.07.2014. If the petitioner is entitled to assail the OM dated 03.07.2014 before the Tribunal as per law, then liberty in that regard is granted to him.

8. The petition is dismissed along with the pending applications.

HIMA KOHLI, J.

PRATIBHA RANI, J.

APRIL 10, 2018

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