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

+ W.P.(C) 4142/2018, CM Nos.16287-88/2018

YAD RAM SHARMA

..... Petitioner

Through: Mr.Manu Mridul, Advocate with
Mr.Shalaj Mridul, Ms.Spandana
Gunda & Ms.Neha Rai, Advocates

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr.Amit Mahajan, CGSC for UOI
with Mr.Madhav Chitale, Advocate
for R-1 to R-3

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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25.04.2018

1. The petitioner has taken over one year to assail a judgment dated 20.02.2017, passed by the Central Administrative Tribunal, partly allowing his OA No.4210/2012, wherein directions were sought to the respondents to grant him notional promotion in HSG Grade I along with consequential benefits.

2. By the impugned judgment, the Tribunal has partly allowed the OA filed by the petitioner by directing the respondents to pay him interest for the delayed period beyond the period of three months reckoned from the date of the order i.e. 02.01.2008 passed by the Rajasthan High Court in S.B.Cr. Appeal No.495/1986. However, the prayer of the petitioner for awarding

him compensation of ₹5 lakhs for alleged physical and mental harassment caused by the respondents and ₹3 lakhs for reimbursement of TA and DA expenses was declined by the Tribunal.

3. At the outset, Mr.Mridul, learned counsel for the petitioner has been requested to clarify as to what was the first date when the cause of action had arisen in favour of the petitioner, for raising a grievance before the Tribunal with regard to his notional promotion in the HSG Grade I.

4. Learned counsel submits that the petitioner was involved in case FIR No. 63/74, registered under Section 409 IPC at Police Station Rajgarh, Alwar (Rajasthan). The said case was finally disposed of by the Rajasthan High Court, Jaipur Bench vide judgement dated 02.01.2008 in S.B.Cr.Appeal No. 495/1986, entitled State of Rajasthan Vs. Yad Ram, whereunder the acquittal order dated 25.06.1986 passed by the learned Addl. Sessions Judge No. 1, Alwar, in respect of the petitioner was affirmed.

5. That being the position, we are of the opinion that the petitioner ought to have approached the court for seeking appropriate relief within the time stipulated under Section 19 of the Administrative Tribunals Act, 1985.

6. Learned counsel for the petitioner responds by stating that after passing of the judgment dated 02.01.2008, the petitioner kept on making several representations to the respondents starting from 31.03.2008, as would be apparent from the letter dated 15.02.2010, enclosed at page 119 of the paper book. Even if the date of 31.03.2008 is accepted as the date on which the petitioner had first submitted a representation to the respondents, the Act stipulates that in case the applicant raises a grievance with the respondents by submitting a representation in that regard, then after expiry of six months reckoned therefrom, and one year from the date of expiry of

the said period of six months, an application ought to be filed before the Tribunal for appropriate relief. Admittedly, the petitioner did not take timely steps in this regard and instead waited till November, 2012 to file the said OA. In the above context, the Tribunal has made the following pertinent observations:-

16. First of all it needs to be clarified that the applicant has made a wrong statement in para 4 (j) that he was promoted in the cadre of LSG and HSG-II w.e.f. 30.11.1983 and 1.10.1991. This is factually incorrect as clarified by the respondents that he was never promoted but was granted the scales on upgradation under the TBOP and BCR scheme. Clearly the applicant has tried to mislead this Tribunal.

17. There was a criminal case against the applicant and Department could act only after the matter was finally disposed of by the Hon'ble High Court of Rajasthan on 02.01.2008 where after he was granted the upgradation under TBOP & BCR scheme as stated earlier. As explained by the respondents in their reply that applicant's case was considered by DPC twice but he was not found fit for promotion to LSG due to his unsatisfactory record of service and average grading. The applicant never submitted any representation against not getting his promotion to LSG grade. The respondents have also succinctly clarified that his junior got LSG grade notionally w.e.f. 01.10.1991, HSG-II w.e.f. 29.11.2006 and HSG-I (on adhoc basis) w.e.f. 08.03.2007 and, therefore, even if the applicant had been promoted notionally to LSG on 01.10.1991 or against the vacancies of the year 2004 he could not have been promoted to HSG-II and HSG-I till his date of retirement i.e. 30.05.2005. Therefore, it is clear that the applicant failed to get promoted as LSG as the DPC found him unfit and it is not that he was not considered for promotion. Secondly, since he retired in 2005 and his junior could get HSG-II only in 2006 there is no way he could have got HSG-I as he retired before that on 31.05.2005. Had the applicant challenged the decisions of the DPC not granting him promotion as LSG, he would have had a case. Having not challenged that he cannot claim

promotion as HSG-I straightway without having got promotion as LSG and HSG-II. Therefore, his prayer to grant him promotion to HSG-I cannot be allowed and is rejected.”

7. For the valid reasons recorded in the impugned order, we are not inclined to entertain the present petition. The petition is dismissed along with pending applications and the impugned order is sustained.

HIMA KOHLI, J.

PRATIBHA RANI, J.

APRIL 25, 2018

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