

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Writ Petition No.21790 of 2019

Date of decision : August 20, 2019

Devi Dayal

...Petitioner

Versus

Union of India and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr.Shailendra Sharma, Advocate
for the petitioner.

HARINDER SINGH SIDHU, J.

This Writ Petition has been filed challenging the order dated 20.02.2019 (Annexure P-2), passed by the Central Administrative Tribunal, Chandigarh Bench, whereby Original Application No.060/165/2019 filed by the petitioner has been dismissed.

2. The petitioner has filed the Original Application seeking direction to the respondents to release him the benefit of 3rd MACP w.e.f 30.07.2010 and to promote him as MT Driver Special Grade from January 2012, when a person junior to him was promoted. He had further prayed for direction to re-fix his pay after the grant of benefit of 3rd MACP w.e.f 30.07.2010 and other consequential benefits.

3. The petitioner had retired on attaining the age of superannuation on 31.05.2014. He remained silent for three years thereafter. In September 2017, he moved an application under RTI Act, seeking information regarding number of persons promoted to the post of MT Driver Special Grade from January 2012 to December 2015. On receipt of the information, he submitted a representation on

29.09.2017 claiming that his case be considered for promotion from the date a person junior to him was promoted. He was informed through various communications dated 23.01.2018, 04.05.2018 and 24.07.2018 that his case for promotion was considered but kept in sealed cover due to pending disciplinary proceedings and that his 3rd MACP though due could not be granted due to pendency of disciplinary proceedings. He served legal notice dated 01.10.2018 but as he did not get a favourable response, he filed the OA on 12.02.2019.

4. The learned Tribunal dismissed the Original Application as being time barred. It was held that mere filing of a representation would not give a fresh cause of action to approach the Court in the year 2019 after a delay of more than 05 years from the date of his superannuation. The learned Tribunal held that the cause of action first arose to the petitioner in the year 2010 when his case for grant of financial up-gradation was postponed in view of the departmental proceedings against him. It secondly arose to him when he retired from service on attaining the age of superannuation on 31.05.2014. The petitioner filed the OA in the year 2019. He did not even file an application for condonation of delay.

5. There is no illegality or infirmity in the impugned order.

6. Accordingly, there is no merit in the petition and the same is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

August 20, 2019
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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No