HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.387/2020

Qazi Irfan Jeelani

----Petitioner(s)

Versus

The Union of India & others

-----Respondent(s)

For Petitioner(s)	: Mr. Somik Deb, Advocate, Mr. Anujit Dey, Advocate.
For Respondent(s)	: Mr. Bidyut Majumder, Asstt. S.G.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

Order

03/12/2020

Petitioner has challenged adverse entries in his Annual Performance Appraisal Report (APAR, for short) for the period between 01.04.2013 to 31.03.2014. The petitioner has also challenged orders dated 11.03.2016 and 29.07.2016 by which his representations against the said adverse entries were rejected. The petitioner has further challenged an order dated 03.02.2020 by which his juniors were promoted to the higher post of Second-In-Command leaving him out of promotion.

2. The petitioner joined the service of Central Reserved Police Force (CRPF, for short) as an Assistant Commandant in November, 2001. On 04.02.2009 he was promoted to the post of Deputy Commandant. For

the period of 2013-14 there were adverse entries in his APAR which were communicated to him on or around 12.01.2015. The gist of the adverse entries was that he did not carry out the responsibilities entrusted to him with full dedication. He does not take interest in the duties assigned to him. Close watch is necessary over the discharge of his duties. For these shortcomings periodically oral as well as written instructions and warnings have been given to him.

3. Against such adverse entries made by the Reporting Officer in the appraisal report, the Reviewing Officer without any modifications confirmed the APARs. Once these adverse entries were communicated to the petitioner, he made a representation to the IGP of CRPF on 26.01.2015. He treated these adverse entries as downgrading his appraisal since compared to the previous years the appraisal of the said year was poorer. He alleged that the Reporting Officer was prejudicial in making such remarks and there was no basis for such remarks. The representation of the petitioner was rejected by the Deputy Inspector General by an order dated 11.03.2016. The petitioner thereupon filed a further representation to the Director General on 15.05.2016. This representation was rejected by the Director General by an order dated 29.07.2016. The petitioner thereafter took no steps to challenge the said adverse entries or the orders rejecting his

representations. In the year 2016 the department considered further promotions to the post of Second-In-Command in which the petitioner was within the zone of consideration. His juniors were promoted. The petitioner was not; on account of the said adverse entries. This was repeated in the year 2018 and thereafter lastly in February, 2020. It is in this background that the petitioner has filed this petition for above noted prayers.

4. Since the adverse entries which are the basis of challenge in this petition were communicated to the petitioner in January, 2015 and his last representation against such adverse entries was rejected in July'2016, at the outset I had heard learned counsel for the petitioner on the question of delay and laches. As is well settled, a writ petition filed in the High Court under Article 226 of the Constitution of India is not governed strictly by the Limitation Act. Nevertheless in exercise of discretionary writ jurisdiction the Court may refuse to entertain a challenge which is highly belated. In this context, questions of delay and laches are always relevant. The law does not favour the tardy is an oft repeated phrase.

5. Learned counsel for the petitioner submitted that the petitioner had no immediate cause to challenge the adverse entries or the rejection of his representations against the adverse entries. The effect of such adverse

entries was felt when the petitioner was superseded in promotion. He, however, candidly stated that the non-promotions of the petitioner were based on the adverse entries. In other words, if the petitioner failed in his challenge to the adverse entries, it would not be possible for him to challenge the orders of promotion in which he was excluded. In short, a stand-alone challenge to his non-promotion, is legally not sustainable in the present case.

6. I do not find that the petitioner has made out sufficient grounds to ignore long and inordinate delay in filing the writ petition. Till July, 2016 when the petitioner was representing against the adverse entries before the department, he had no cause or reason to approach the High Court. However, once the Director General of CRPF rejected his representation, the petitioner had to have taken his legal options. The petitioner cannot explain the delay by suggesting that as and when he was bypassed in promotion he had a right to challenge the adverse entries. Even in this respect the petitioner's first supersession happened in the year 2016. Looked from any angle the petition is belated without any reasonable explanation for such delay. The petitioner is an educated Government servant holding a high Government post. He cannot plead lack of resources, awareness or advice preventing him from filing the petition in time.

7. Petition is, therefore, dismissed.

8. Pending application(s), if any, also stands disposed of.

(AKIL KURESHI), CJ

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HIGH COURT OF TRIPURA
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