

\$~6(2020)

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

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Decision delivered on: 02.08.2021

+ **W.P.(C) 2979/2021**

SISHU PAL SINGH

..... Petitioner

Through: Mr. A.K. Trivedi, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Ms. Nidhi Banga, Senior Panel
Counsel for R-1/UOI.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

RAJIV SHAKDHER, J. (ORAL):

[Court hearing convened via video-conferencing on account of COVID-19]

1. This is a writ petition directed against the order of the Central Administrative Tribunal (in short 'the Tribunal') dated 19.11.2019, passed in OA No. 812/2014. The Tribunal dismissed the action filed by the petitioner.

1.1. Being aggrieved, the petitioner has approached this Court.

2. The backdrop in which the petitioner lodged his action before the Tribunal is as follows: -

2.1 In 1970, the petitioner had joined services of Safdarjung Hospital as Nursing Assistant. He, thereafter, occupied the post of Senior Nursing Assistant/Senior O.T. Technician.

2.2. Next post, to which the petitioner was eligible for promotion, was that of O.T. Supervisor (Group 'B' Non-Gazetted). The Departmental Promotion Committee (DPC) held a meeting on 27.12.2006. Although, the

petitioner was found fit, for promotion on ad hoc basis, the recommendations of the DPC were approved by the competent authority only on 02.01.2007. In the interregnum i.e. on 31.12.2006, the petitioner superannuated from service.

3. Record shows that the petitioner took no steps whatsoever to take recourse to a legal remedy till 2014. The action in the Tribunal was filed in February 2014.

3.1. The Tribunal dismissed the petitioner's action, as noticed above, on the ground that, promotion can ordinarily be effectuated prospectively [i.e. given effect to after the order is passed and not before], with few exceptions, such as where sealed cover procedure is followed and since petitioners case did not fall in those exceptional circumstances and because the order of promotion, based on the recommendation of the DPC, was passed after the petitioner had superannuated, no relief could be granted to the petitioner.

4. In our view, even though, the facts and circumstances obtaining in the case, suggest that fate has dealt, perhaps with a harsh blow to the petitioner, we are unable to find fault with the approach adopted by the Tribunal. The decision of the DPC is only a recommendation which bears fruit only when an order is passed by the competent authority.

4.1. Since the petitioner had already superannuated from service, he cannot [as rightly observed by the Tribunal] be given any benefit of the promotion order, which came to be passed subsequently.

5. Accordingly, the petition is dismissed.

RAJIV SHAKDHER, J

TALWANT SINGH, J

AUGUST 2, 2021/mr

Click here to check corrigendum, if any