

\$~30 (2021)

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

NEUTRAL CITATION NO: 2022/DHC/000010



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Date of decision: 21.12.2021

+ **W.P.(C) 14732/2021, CM APPL. 46370-71/2021**

UNION OF INDIA & ORS.

..... Petitioners

Through Ms Arti Bansal with Mr Ajay
Digpaul, Advocates.

versus

MAHAVIR SINGH & ANR.

..... Respondents

Through Mr S. K. Gupta, Advocate

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

RAJIV SHAKDHER, J. (ORAL):-

1. This writ petition has been preferred against the order dated 17.05.2017, passed by the Central Administrative Tribunal [in short “the Tribunal”] in O.A. No.119/2016.

2. Mr S. K. Gupta, who appears on behalf of respondent no.1 i.e., the contesting respondent/original applicant, informs us that partial relief has already been granted to the said respondent i.e., respondent no. 1.

2.1. In this context, Mr Gupta, learned counsel for the respondent no. 1, has placed before us a copy of the promotion order dated 12.12.2018, whereby respondent no. 1, amongst others, has been accorded the Selection grade [Non-Functional Selection Grade (NFSG)] (Level 13 in the pay matrix) (Pay Band-4 of Rs.37,400-67,000/- + Grade Pay of Rs. 8,700/-) (Pre-revised), w.e.f. 01.01.2014.

2.2. Mr Gupta informs us that this promotion order was passed after a contempt petition was instituted.

2.3. Furthermore, he informs us that a second contempt petition has been filed, which is what, according to him, has triggered this writ petition.

3. We have queried Ms Arti Bansal, who appears on behalf of the petitioners, as to what is the reason for the enormous delay of more than four and a half years in approaching this Court.

3.1 Ms Bansal, in this context, has drawn our attention to the assertions made in paragraph 5, appended on page 24 of the writ petition. A careful perusal of the assertions made therein would show that, after the impugned order dated 17.05.2017 was passed by the Tribunal; the petitioners took nearly 14 months to engage a counsel.

3.2. This time gap i.e., the delay in appointment of the counsel, however, has not been explained. Furthermore, in between, the only explanation given was as to how attempts were made to freeze the draft of the writ petition.

3.3. Pertinently, for the period falling between 08.03.2019 and 12.08.2020, there is once again, no explanation provided by the petitioner.

3.4. While we usually cut the petitioner some slack, given the fact that the wheels of bureaucracy sometimes for one reason or the other, move slowly, the time gap involved in the instant case which is more than four and a half years is completely unacceptable; in particular, having regard to the fact that a part of the relief has already been granted to respondent no. 1 and that the petitioner is perhaps dragging his feet *qua* the other half.

4. The issue which arose before the Tribunal was as to how the period spanning between 27.02.2012 and 20.01.2013 should be treated.

4.1. The petitioners' case is that the aforesaid period i.e., 326 days could not be counted towards respondent no. 1's service as he was on leave without authority.

4.2. The Tribunal has attempted to resolve the interplay between the provisions of Fundamental Rule 17-A [in short, "FR 17-A"] and the Note appended below Schedule II of the IRS Recruitment Rules.

4.3. The Tribunal has concluded that since respondent no. 1's junior i.e.,

one Mr B.R. Madan, was promoted, respondent no. 1 should also be considered in NFSG, although he had not completed 13 years of his service in FR 17-A, and the requirement was that the person concerned should be in the 14th year of his service on the 1st January of the relevant year.

4.3. The leeway that the Tribunal obtained was, as indicated above, through the Note appended below Schedule II of the relevant recruitment rules.

5. Having, thus, examined the matter holistically, we are of the view that this matter does not call for interference solely on account of delay and latches.

5.1. Having perused the record, we find that there is no good reason given by the petitioner as to why there was a delay in approaching this Court.

6. The writ petition is, accordingly, dismissed. Consequently, pending applications shall also stand closed.

(RAJIV SHAKDHER)
JUDGE

(TALWANT SINGH)
JUDGE

DECEMBER 21, 2021/pa

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