

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13459 OF 2022

Deepak Yellappa Nargal

...Petitioner

V/S

The Engineer-in-Chief

Integrated HQ of Ministry of Defence (A) & Ors.

...Respondents

...

Mr. Ajay Shinde for the Petitioner.

None for Respondents.

...

CORAM : NITIN JAMDAR, ACJ &
SANDEEP V. MARNE, J.
DATE : 6 JUNE 2023.

P.C.:

Heard the learned counsel for the Petitioner.

2 The Petitioner has challenged the order dated 11 March 2021 passed by the Central Administrative Tribunal, Mumbai, rejecting his Original Application No.229 of 2021. In the Original Application the Petitioner had sought directions to the Respondents to grant the Grade of Master Craftsman (MCM) from March 2006 onwards and to refix his pay and grant him consequential financial benefits at par with his juniors i.e. Respondent Nos.5 and 6. He has further sought directions to the

Respondents to maintain his original seniority in the seniority list and he be treated as promoted in the Grade of FGM HS-1 from the year 1996 at par with his juniors.

3 The Tribunal has rejected the Original Application on the ground that it is barred by limitation as per section 21 of the Administrative Tribunals Act, 1985 and also that the Petitioner did not file any application for condonation of delay.

4 The Petitioner was appointed as a Mazdoor on 25 November 1980. Thereafter, he was placed in category of Fitter General Mechanic (FGM) SK and thereafter promoted on 25 May 2003. On 1 January 2006, he became FGM HS-1 and was posted under the Director General Quality Assurance (DGQA), Military Engineering Services (MES), Vikroli, Mumbai. The Petitioner's grievance was that Respondent Nos.5 and 6, his juniors, were promoted in the year 2006 and that the Petitioner was denied promotion. Twelve years thereafter the Petitioner made a representation and filed the Original Application in the year 2021.

5 The learned Counsel for the Petitioner contended that the Petitioner has a fundamental right to be considered for promotion and that denial of promotion would affect his pensionary benefits and therefore the case could have been considered as of a recurring cause of action. The learned counsel would rely upon two decisions – i) *S.B.*

Bhattacharjee vs. S.D. Mujumdar & Ors.,¹ and, ii) *K. Thimmappa & Ors. vs. Chairman, Central Board of Directors, SBI*,²

6 We find no error in the view taken by the Central Administrative Tribunal. It is in the year 2006 that the promotion was denied to the Petitioner. The oral submission made on behalf of the Petitioner that he was not aware about promotion being granted to Respondent Nos.5 and 6 cannot be accepted as Petitioner and Respondent Nos. 5 and 6 have been working in the same Department. The decisions relied upon by the Petitioner are not in the context of delay in making a grievance regarding denial of promotion.

7 No perversity or any error can be found in the decision of the Tribunal. The Writ Petition is accordingly rejected.

SANDEEP V. MARNE, J.

ACTING CHIEF JUSTICE

1 (2008) 1 SCC (L&S) 21

2 2001(1) S.C. SLJ 282