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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5598 OF 2018

Dhondiram Govind Kakade ... Petitioner

vs.

Divisional Agari Joint Director and Anr. ... Respondents

Mr. Amol S. Suryawanshi for the Petitioner.

Mr. C. D. Mali, AGP for the State.

CORAM : SANDEEP V. MARNE, J.

DATED : 6 JANUARY, 2023

P.C. :-

1. By this Petition, the Petitioner has challenged judgment and order dated 7 September 2017 passed by the Industrial Court, Sangli dismissing Complaint (ULP) No. 133 of 2014 both on merits as well as on limitation. In his complaint the Petitioner had prayed for grant of financial upgradation under Assured Career Progression Scheme with effect from 1 October, 1994.

2. Before the Industrial Court, it was demonstrated that the Petitioner was given adverse remarks in his Annual Confidential Reports during the years 1989-90 to 1993-94.

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Furthermore the Petitioner was not permitted to cross efficiency bar in the year 1994 on account of the adverse remarks in his Confidential Reports.

3. The financial upgradation under provisions of Assured Career Progression Scheme are not to be automatically granted. Financial upgradation is granted in lieu of inability of the employer to offer promotion on account of stagnation. However, in order to earn a financial upgradation under the ACP Scheme, the employee has to fulfill all the norms prescribed for promotion. On account of adverse remarks in his Confidential Reports, the Petitioner could not have earned promotion. Since he was unable to earn promotion, he cannot get financial upgradation under the ACP Scheme as a matter of right. Therefore on account of adverse remarks in his Confidential Reports during 1989-90 to 1993-94, the Petitioner has rightly been denied financial upgradation under the ACP Scheme.

4. Even otherwise the Petitioner admitted during the cross examination that he was informed by the employer on 1 October 2002 that the benefit of ACP Scheme could not be granted on account of adverse reports. Despite having acquire

knowledge of rejection, the Petitioner slept over the matter throughout. He apparently retired from service on 31 May 2003. He woke out of his deep slumber only in the year 2014 and instituted Complaint (ULP) No. 133 of 2014. The complaint was grossly barred by limitation.

5. I am of the view that the Industrial Court has not committed any error in dismissing the complaint of the Petitioner both on limitation and on merits.

6. The petition is devoid of merits. Writ Petition is dismissed. No order as to costs.

(SANDEEP V. MARNE, J.)