

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1986 OF 2020**

Jagannah Waman Wagh

.....Petitioner

V/s.

Union of India and Ors.

.....Respondents

.....

Mr. Ulhas S. Shinde, Advocate for the Petitioner.

Mr. Yuvraj Narvankar a/w. Mr. Mayur Mohite, Advocate for
Respondents no.2 and 3.

**CORAM : NITIN JAMDAR, ACJ, &
SANDEEP V. MARNE, J.**

DATE : 8 JUNE, 2023.

P.C. :

Petitioner has filed the present petition seeking promotion to the post of Head Checker on par with his immediate junior w.e.f. 5 October 2001 with consequential benefits of seniority, pay-fixation and arrears of pay. Petitioner also seeks revision of his pension after his retirement w.e.f. 30 July 2011.

2. Brief facts of the case are that Petitioner was initially appointed a Dresser in the India Security Press on 6 October 1977.

He came to be promoted to the post of Mazdoor in the Currency Note Press w.e.f. 2 August 1982. He was later transferred to the Control Section on 15 June 1983 and promoted to the post of Junior Counter and thereafter as Examiner in 1986. On 16 March 1994 he came to be appointed to the post of Final Counter.

3. A Notification was issued in the year 1998 by the Currency Note Press convening selection for promotion to the post of Assistant Inspector Control. Petitioner participated in the selection process and claims to have been selected. However instead of granting him regular promotion, he was promoted to the post of Assistant Inspector Control purely on Ad-Hoc basis for a period of six months vide order dated 5 October 2001. The tenure of his ad-hoc promotion to the post of Assistant Inspector Control was extended from time to time and the last extension was upto 31 December 2004. Before completion of the extended tenure, an order was issued on 6 October 2004 reverting Petitioner from the post of Assistant Inspector Control to his substantial post of Final Counter. Petitioner challenged the order dated 26 November 2004 before the Central Administrative Tribunal, Mumbai (**Tribunal**) by filing Original Application No. 225/2005. The Tribunal dismissed the Original Application by judgment and order dated 20 September 2006. Petitioner unsuccessfully challenged the Tribunal's decision before this Court in Writ Petition No.

1815/2007, which came to be dismissed for default on 12 June 2007. This is how the issue with regard to ad-hoc promotion to the post of Assistant Inspector Control attained quietus.

4. Petitioner has pleaded in his petition that he did not have knowledge of termination of proceedings before this Court and noticed the same only on 19 September 2014. In the meantime, Petitioner retired from service on attaining the age of superannuation on 3 July 2011. Petitioner thereafter started pursuing another cause by addressing notice through his Advocate on 9 April 2014 for grant of promotion in the cadre of Final Counter on par with his Juniors. He filed Original Application No. 613/2017 before the Tribunal, by which time the Currency Note Press was corporatised into Security Printing and Minting Corporation of India Limited and the Tribunal lost jurisdiction over it. The Original Application was accordingly dismissed for want of jurisdiction with liberty to the Petitioner to approach the competent forum. Instead of immediately approaching this Court, Petitioner entered into some correspondence with the Respondents and has thereafter filed the present petition on 15 December 2019 praying for promotion to the post of Head Checker w.e.f. 5 December 2001 and consequent revision in pension.

5. Appearing for the Petitioner, Mr. Shinde the learned Counsel would submit that Petitioner cannot be made to suffer on

account of the fact that he occupied higher post of Assistant Inspector Control on ad-hoc basis during 2001 to 2004. He would submit that while reverting the Petitioner from the post of Assistant Inspector Control, he ought to have been posted on the post of Head Checker, to which his Juniors were promoted in the meantime. On the aspect of delay in filing the present petition, Mr. Shinde would contend that the cause of action is continuous and therefore the petition is not hit by the principles of delay or latches.

6. Petition is opposed by Mr. Narwankar, the learned Counsel appearing for Respondents No.2 and 3. He would submit that Petitioner is attempting to reagitate the issues which have attained finality on account of Tribunal's decision dated 20 September 2006 and dismissal of the Petitioner's Writ Petition on 12 June 2007. He would further submit that the petition is otherwise hopelessly barred by delay as Petitioner is seeking promotion from the year 2001 after his retirement on 30 July 2011 by filing a petition in the year 2019. He would pray for dismissal of the petition.

7. Rival contentions of the parties now fall for our consideration.

8. We first deal with the contention of Mr. Narwankar that Petitioner is attempting reagitate the issue settled by decision of the Tribunal. In previous round of litigation, Petitioner was espousing the cause of reversion from the post of Assistant Inspector Control whereas in the present Petition, he is proceeding on assumption that his reversion is legal but seeks promotion to another channel of Head Checker. Therefore, the contention of Mr. Narwankar is not tenderable.

9. Petitioner's grievance is about non-grant of regular promotion from the post of Final Counter to the post of Head Checker w.e.f. 5 October 2001 on par with his Juniors. He contends that on account of his ad-hoc promotion to the post of Assistant Inspector Control on 5 October 2001, he was deprived of an opportunity of being granted regular promotion to the post of Head Checker. The contention may appear attractive in the first blush, however on careful scrutiny, the same is completely baseless. Petitioner seeks promotion to the post of Head-Checker w.e.f. 5 October 2001. He was promoted on ad-hoc basis to the post of Assistant Inspector Control on 5 October 2001. Thus till 4 October 2001, he continued to function on the post of Final Counter. No material is produced by Petitioner to demonstrate that on 5 October 2001, his immediate Junior was promoted to the post of Head Checker. Petitioner has also not demonstrated, in any

manner that from 5 October 2004 (date of Ad-Hoc promotion) till 6 October 2004 (date of reversion), any of his Juniors were promoted to the post of Head Checker. Petitioner has thus raised a vague contention that ad-hoc promotion to the post of Assistant Inspector Control resulted in denial of promotion to the regular post of Head Checker. Petitioner ought to have demonstrated by producing concrete material that any of his Juniors were indeed promoted to the post of Head Checker. That such promotion was based purely on seniority and that therefore Petitioner ought to have been granted regular promotion as a Head Checker from the date of promotion of his Junior. It also appears that Petitioner did not address any representation while holding ad-hoc post of Assistant Inspector Control complaining about grant of regular promotion to any of his Juniors to another cadre of Head Checker. We therefore do not find any substance in the contention of the Petitioner.

10. Adverting to the issue of delay, Petitioner was reverted to the post of Final Counter w.e.f. 6 October 2004. If indeed any of his Junior was promoted to the post of Head Checker on regular basis prior to 6 October 2004, Petitioner ought to have raised grievances in respect thereof. He however kept on pursuing the issue of his reversion from the post of Assistant Inspector Control by filing Original Application No.225/2005 before the Tribunal.

The Original Application was dismissed on 20 September 2006. Writ Petition challenging the decision of the Tribunal was dismissed for default on 12 June 2007. Immediately thereafter, Petitioner did not take any steps in respect of alternative plea of grant of regular promotion to the post of Head Checker. He slept over the matter till he retired on attaining the age of superannuation on 30 June 2011. Even after retirement, the Petitioner continued to be in deep slumber and raised the issue of promotion in the cadre of Final Counter only on 9 April 2015 by addressing notice through his Advocate. He approached the Tribunal two years later in the year 2017 by filing Original Application No. 631/2017. Though the Original Application was dismissed for want of jurisdiction on 14 August 2018, he took more than a year to file the present petition on 5 December 2019. Thus apart from this fact that there is absolutely no merit in the contention raised by the Petitioner., his stale grievance is otherwise barred by principles of laches.

11. Consequently both, on the grounds of delay as well as on merits, no case is made out by the Petitioner for interference by this Court into the action of the Respondents. Petition is devoid of merits. It is dismissed with no orders as to costs.

SANDEEP V. MARNE, J.

ACTING CHIEF JUSTICE