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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 22.04.2024***+ **W.P.(C) 1379/2022****AJAI VATAN**

..... Petitioner

Through: Petitioner in person.

versus

GOVT OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Nizammudin, Advocate (through
Video-conferencing)**CORAM:****HON'BLE MS. JUSTICE REKHA PALLI****HON'BLE MR. JUSTICE RAJNISH BHATNAGAR****REKHA PALLI, J (ORAL)**

1. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 10.09.2021 passed by the learned Central Administrative Tribunal in O.A.1314/2021. Vide the impugned order, the learned Tribunal has rejected the original application filed by the petitioner on the ground of delay and laches.

2. Having joined the services of the respondents as a Head Clerk on 08.09.1980, the petitioner upon passing the SAS Exam was appointed as a Junior Accounts Officer in 1986. He was thereafter promoted as an Accounts Officer in 1992 and thereafter as a Senior Accounts Officer in 1998. While the petitioner was working as a Senior Accounts Officer, an FIR bearing No. 1/2006 came to be



registered against him along with four others including one Sh. D.S.Bhakuni. Consequently, the petitioner as also Sh. D.S.Bhakuni who was junior to him in the seniority list of Sr. Accounts Officers, were both placed under suspension on 06.03.2006 which suspension came to be revoked on 23.11.2007.

3. While the petitioner was under suspension, some of his juniors were on 04.05.2007 granted adhoc promotions as Deputy Controller of Accounts. It is the petitioner's case that even after his suspension was revoked, while other persons who were again junior to him were promoted, which promotion was for inexplicable reasons denied to him. It is his further case that soon thereafter based on the recommendations of the DPC held on 15.05.2008, while various persons junior to the petitioner were w.e.f. 22.05.2008 promoted as Deputy Controller of Accounts on regular basis, the recommendations qua him and Sh. D.S.Bhakuni were kept in a sealed cover. Consequently, he superannuated from service on 31.01.2009 as a Sr. Accounts Officer.

4. It is the petitioner's further case that in 2020 upon learning that his junior Sh. D.S.Bhakuni, who was also named in the same FIR had on 14.03.2011 also been promoted as Deputy Controller of Accounts despite the pendency of the FIR against him, he submitted an application under the Right to Information Act. Information confirming that Sh. D.S.Bhakuni had been promoted w.e.f 22.05.2008 was received by him on 19.02.2020. Based on this information, he approached the Tribunal on 13.04.2021 seeking a direction to the respondents to grant him promotion as Deputy Controller of Accounts



w.e.f 22.05.2008 along with all consequential benefits.

5. The learned Tribunal has, however, rejected the original application filed by the petitioner after noticing that he had neither produced the promotion order dated 14.03.2011 vide which Sh. D.S.Bhakuni was promoted nor given any explanation for approaching the Tribunal after 10 years.

6. The petitioner, who appears in person, submits that he could not be faulted for this delay of 10 years in approaching the learned Tribunal, as he was unaware about the promotion granted to his junior Mr. D.S.Bhakuni, who like the petitioner, was also named in the same FIR. He submits that once recommendations qua Sh. D.S. Bhakuni which had been kept in a sealed cover on 15.05.2008 were opened in 2011, the respondents ought to have opened the sealed cover qua the petitioner as well. It is only when he learnt about the promotion granted to Sh. D.S. Bhakuni on 19.02.2020 when received the response to his RTI Application that the petitioner became entitled to approach the Tribunal. He, therefore, prays that the impugned order be set aside and his original application be allowed by directing the respondents to open the sealed cover qua the petitioner as well.

7. In order to appreciate the submissions of the petitioner, it would be apposite to note the relevant extracts of the impugned order, which reads as under:

2. On a query as to whether the applicant, who is appearing in person, has annexed the order dated 14.03.2011, by which promotion is given retrospectively to the junior person, namely Mr. D. S. Bhakuni, w.e.f. 22.05.2008, he failed to provide any document in support



of his claim that his junior person was promoted before his retirement. The applicant has already retired on 31.01.2009 and he has approached this Tribunal in the year 2021, i.e., after a delay of 10 years. Thus, the OA is hopelessly barred by limitation. Another aspect is that the necessary documents are also not filed.

3. The OA is accordingly dismissed, being devoid of merit as well as barred by limitation. There shall be no order as to costs.

8. From a perusal of the aforesaid findings of the learned Tribunal, we find that the learned Tribunal has rejected the O.A after finding that there was no material placed on record to show that any person junior to the petitioner had been promoted before his retirement. The Tribunal was therefore of the view that the petitioner having superannuated on 31.01.2009 could not now be permitted to raise a claim for retrospective promotion after 12 years of his superannuation. It appears that except for stating that he had received information under the RTI Act in February 2020, the petitioner had given absolutely no explanation for the delay in approaching the Tribunal.

9. Even before us the petitioner, who claims to be practising Advocate since 2013 has given no justifiable reason as to why he could not seek information regarding the purported promotion of Sh. D.S.Bhakuni in time. Even if, we were to accept the petitioner's plea that once the respondents opened the sealed cover qua Sh. D.S.Bhakuni by implementing the recommendations of the DPC held on 15.05.2008, they ought to have opened the sealed cover qua the petitioner as well, we are of the considered view that it is too late in the



day for the petitioner to seek a direction for giving effect to recommendations which were kept in a sealed cover way back on 15.05.2008. Furthermore, the petitioner had superannuated from service almost 15 years ago and, therefore, no such direction for opening of the sealed cover can be issued to the respondents at this belated stage.

10. The petitioner having slept over his rights cannot now be permitted to urge that he became aware about the promotion of his junior only in February 2020. It was always open for the petitioner to seek information under the RTI well in time. Having failed to do so, he has himself only to blame. It is trite law that belated service claims should not be entertained unless the same pertained to a continuing wrong. In this regard, reference may be made to the following observations of the Apex Court in ***Union of India and Ors. Vs. Tarsem Singh (2008) 8 SCC 652:***

“7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or



affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.”

11. For the aforesaid reasons, we find absolutely no reason to interfere with the impugned order. The writ petition being meritless is, accordingly dismissed.

(REKHA PALLI)
JUDGE

(RAJNISH BHATNAGAR)
JUDGE

APRIL 22, 2024/ib