

W.P.S.T. 204 of 2025

Mr. Pradip Kumar Saha
Vs.
The State of West Bengal & Ors.

Mr. Asim Hati,
Ms. Nandini Sharma,
Mr. Antariksha Karmakar
...for the Petitioner

Mr. Biswabrata Basu Mallick, Id. AGP,
Mr. Gourav Das
...for the State

1. Heard the learned counsel for the petitioner as well as the learned A.G.P. appearing on behalf of the State.
2. The Original Application was filed by the writ petitioner in the year 2022, claiming benefit of promotion to the post of Chief Engineer which according to the petitioner was due to him. The sum and substance of the claim set out in the Original Application is that others have been granted the promotion. Though the petitioner was senior to the others who have been promoted he was not granted the promotion. The promotion was granted on 25.05.2017 to the others. Five years thereafter a legal notice was sent on behalf of the petitioner on 18.05.2022 and immediately thereafter the Original Application bearing O.A. No. 411 of 2022 was filed.

3. The West Bengal Administrative Tribunal ('S.A.T.' for short) rejected the petitioner's prayer accepting the stand of the respondents in the proceeding that since the petitioner did not have the requisite A.C.R. entry evaluation for the five years preceding the grant of promotion, his case was not considered.
4. The learned counsel for the petitioner in his submission before this Court submits that the DPC considering the promotion has taken into consideration the uncommunicated A.C.R. entries. Since the A.C.R. entries were not communicated to the petitioner, the same could not have been relied upon for the purpose of evaluating the petitioner's candidature for grant of promotion by the DPC in May 2017. In support of his contention, he has relied upon a decision of the Apex Court in the case of ***R.K. Jibanlata Devi Vs. High Court of Manipur through its Registrar General & Ors.*** reported in ***(2023) 19 SCC 472***.
5. The learned A.G.P. on the other hand submits that the petitioner was not entitled to the promotion since the A.C.R. entries for the five years preceding the DPC were not up to the mark. The petitioner never challenged the proceedings of the DPC or the A.C.R. entries. For the first time before the S.A.T. in his rejoinder to the reply filed

by the State authorities, he has stated that the A.C.R. entries were not communicated to him and therefore, cannot be relied upon.

6. Insofar as decision of the Apex Court relied upon by the learned counsel for the writ petitioner, he submits that the same is not applicable to the facts of the present case.
7. We have considered the rival submissions.
8. On consideration of the submissions and the material-on-record, we find that the promotion was granted to others on 25.05.2017. In spite of grant of such promotion to others, the petitioner has not taken any steps for a period of five years. Only thereafter he has got a legal notice sent to the authorities laying the foundation for invoking the jurisdiction of the S.A.T. by filing O.A. thereafter. The O.A. No. 411 of 2022 has thus been filed and considered by the S.A.T.
9. In view of the timeline taken note of from the record, we find reliance placed on decision of the Apex Court in the case of **R. K. Jibanlata Devi** (*supra*) to be misplaced. This decision of the Apex Court is rendered on a writ petition filed under Article 32 of the Constitution of India which was filed by the writ petitioner therein in the year 2021 immediately after the DPC had deprived the petitioner therein, benefit of promotion as

Assistant Registrar relying on A.C.R. entries for the past four years as per the requirement of the rule therein. One entry in the A.C.R. “Good” for the year 2016-17 was taken into consideration which the Apex Court found to be an uncommunicated A.C.R. entry. The facts of the present case are therefore at stark variance with the facts of the case of **R.K. Jibanlata Devi** (*Supra*). In the present case promotion was granted to several persons on 25.05.2017. Thereafter no steps were taken by the petitioner to agitate the issue, for at least a period of five years. Thereafter the legal notice was sent and O.A. was filed by the writ petitioner. The petitioner has apparently slept over his rights for a considerable period, even though promotion was granted to others giving rise to intervening third party rights. Therefore on the principle of delay and laches, the relief claimed by the writ petitioner in the present facts and circumstances is inadmissible in exercise of judicial review.

10. The Judgement of the Apex Court in the case of ***Union of India & Ors. Vs. Tarsem Singh*** reported in **(2008) 8 SCC 648** is worth considering in view of the facts falling for consideration in the present case. The Apex Court in the said case has distinguished the concept of a

continuing wrong; with claims relating to seniority/promotion wherein third party rights have accrued. If such claims are belated then it was held to be normally inadmissible in exercise of writ jurisdiction under Article 226 of the Constitution of India.

11. We, therefore, find no reason to interfere with the order dated 13.12.2024 passed by the S.A.T. in O.A. No. 411 of 2022 substantially refusing the relief of a belated claim for promotion.
12. The Writ Petition being **W.P.S.T. No. 204 of 2025** is dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)