

(2012) 03 RAJ CK 0068
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6253 of 2010

Akhil Bhargava

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 13-03-2012

Acts Referred:

Citation : (2012) 03 RAJ CK 0068

Hon'ble Judges : N.K. Jain, J;Arun Kumar Mishra, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Hon"ble Jain, J.—Heard the Learned Counsel for the parties. This writ petition is directed against the order Dated 31st August, 2009 passed by Central Administrative Tribunal, Jaipur Bench, whereby Original Application No. 380/2009 filed by petitioner, has been dismissed.

2. Petitioner preferred Original Application in the year 2009 with the prayer that the respondents be directed to allow promotion to the applicant in the Scale of Rs. 1600-2600/- w.e.f. 23.8.1994 and further scale of Rs. 2000-3200 w.e.f. 22.9.1997 from the date, his junior was promoted. He also challenged the seniority list and the letter dated 25.8.2008, whereby his representation was dismissed.

3. Learned Tribunal considered the matter in detail and while dismissing the Original Application, observed that Shri A.K. Tyagi, junior to petitioner, was promoted in the Scale of Rs. 1600-2660/- vide order dated 23.8.1994, the applicant was awarded minor punishment of stoppage of due set off pass in major penalty proceedings, vide order dated 14.7.1997 and thereafter the applicant was allowed promotion in the grade of Rs. 1600-2660 vide order dated 30.7.1997, w.e.f. February, 1996. The Tribunal has also observed that applicant has not challenged the validity of order dated 23.8.1994 whereby person junior to him was promoted. Therefore, the Original Application cannot be entertained

at this belated stage i.e. after a lapse of about 15 years. The another prayer about grant of pay scale of Rs. 2000-3200 w.e.f. 22.9.1997 is concerned, the same has also been challenged after a lapse of about 12 years from the date, his junior was granted the said scale. So far as quashing of order dated 25.8.2008 is concerned, the Tribunal observed that filing of repeated representation shall not extend cause of action. The Tribunal has relied upon decisions in the cases of P.S. Sadasivaswamy vs. State of Tamil Nadu (AIR 1974 SC 2771), Gian Singh Mann Vs. High Court of Punjab and Haryana and Another, and C. Jacob vs. Director of Geology and Mining and Another (2008(2) SCC (L&S) 961.

4. We have considered the submissions of Learned Counsel for the applicant and examined the impugned order and other documents on record.

5. The submission of the Learned Counsel, that petitioner had filed repeated representations, which were decided in year 2008, therefore, application should not have been dismissed on the ground of laches, cannot be accepted as filing of repeated representations cannot extend the cause of action.

6. The prayer relating to grant of scale w.e.f. 23.8.1994 was made after 15 years. Therefore, the Tribunal was absolutely right in dismissing the application of the petitioner on the ground of delay. We find that reasons assigned by Tribunal for rejecting the Original Application of petitioner on the ground of limitation are absolutely legal and justified. Even otherwise, on merits also, we find that a person junior to petitioner, was promoted w.e.f. 23.8.1994 and the said order was not challenged by petitioner. Subsequently, petitioner was promoted in the scale of Rs. 1600-2660 w.e.f. February, 1996. Therefore, he cannot claim seniority above his junior in the higher scale. In these circumstances, we find no force in the submissions of Learned Counsel for the petitioner. There is no merit in this writ petition and the same is, accordingly, dismissed in limine.