

(2017) 11 DEL CK 0062

In the Delhi High Court

Case No : Civil Writ Petition No. 10669 Of 2017

Colonel Manjunath B.T.

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 30-11-2017

Acts Referred:

Citation : (2017) 11 DEL CK 0062

Hon'ble Judges : Hima Kohli, J; Rekha Palli, J

Bench : Division Bench

Advocate : Jyoti Singh, Dinesh Yadav, Tinu Bajwa, Himanshu Gautam, Waize Ali Noor, Kirtiman Singh, Prateek Dhanda

Final Decision : Disposed Of

Judgement

1. The petitioner, who is posted as a Colonel in the Director General Quality Assurance, has impugned the upgradation lists of September, 2006,

November, 2008, January, 2010 and December, 2014 on the ground that the said lists have incorrectly fixed his seniority. The petitioner also seeks

quashing of the order dated 19.01.2017 passed by the Ministry of Defence, Government of India, rejecting his statutory complaint dated 28.01.2016

against fixing his seniority and non-implementation of the redressal granted to him by the respondents vide order dated 06.06.2003, in respect of his

assessment in the Confidential Report 07/96 to 05/97.

2. Learned counsel for the respondents, who appears on advance notice, has opposed the maintainability of the present petition on three counts.

Firstly, on the ground that this Court is not vested with the jurisdiction to entertain the present petition as the remedy of the petitioner lies under the

Armed Forces Tribunal Act, 2007; secondly, that the present petition is barred by

limitation as the cause of action had arisen in the year 2006 but no legal recourse was sought by the petitioner for a span of 11 years; thirdly, that the petitioner has failed to implead the Officers, who would be directly affected, in the event the present petition is entertained on merits.

3. Learned counsel for the respondents, however, confines his opposition to the present petition mainly on the aspect of its maintainability on the ground that it is hopelessly barred by delay and laches and he places reliance on two decisions of the Supreme Court in cases of P.S. Sadasivaswamy

vs. State of Tamil Nadu, reported as (1975) 1 SCC 152 and Union of India & Ors. vs. M.K. Sarkar, reported as (2010) 2 SCC 59.

4. At this stage, Ms. Singh, learned Senior Advocate appearing for the petitioner states, on instructions, that instead of pressing the present petition on

merits, she may be permitted to withdraw the same, while reserving the right of her client to approach the Ministry of Defence, Government of India

for seeking a clarification in respect of the observations made in para 3 of the order dated 19.01.2017, wherein it has been stated that the petitioner

has correctly been granted the Batch Year of Seniority of 1989, as per the existing policies. She contends that the petitioner had already been granted

seniority of Batch Year 1988, which has now been changed to his detriment, vide the aforesaid order.

5. Leave, as prayed for, is granted. The present petition is disposed of.