

✓

Coram : Hon'ble Mr. P. H. Trivedi : Vice Chairman
Hon'ble Mr. P. M. Joshi : Judicial Member

21-11-1988

Heard Mr. Brahmhatt for Mr. N. J. Mehta and Mr. B. R. Kyada ~~fax~~ learned advocates for the applicant and the respondents respectively. MA/591/88 regarding condonation of delay basis itself on the communication regarding the decision on seniority dated 19-12-1987 but the application in OA/497/88 with reference to such condonation of delay has been sought as a consequence of the main grievance of the denial of promotion with effect from 8-10-1980 and the correspondence with the Union of India is sought to be brought in for the condonation of delay with reference to the application. There is no reason for the construction that the cause in that application have not arisen or was not advised until the communication dated 19-12-1987 was received through the Union on 10-5-1988. Accordingly, it is found that this Tribunal has no jurisdiction to condone the delay of the extent made in this petition since 8-10-1980 and accordingly, MA/591/88 is rejected and OA/497/88 also stands disposed of.

After the aforesaid order was dictated and before we could sign the same, Mr. N. J. Mehta has made an attempt on the next day i.e. 22-11-1988 and relied on the cases, viz. Har Binder Lal v/s. Controller and Auditor General and Another (A.T.R. 1988(2) C. A. T. 250) and Sualal Yadav v/s. State of Rajasthan & Ors. (A.T.R. 1977 S.C. P. 2050).

3

In our opinion the principles laid down in the said cases are not applicable to the facts and circumstances in the present case. In the instant case persons junior to the petitioner were promoted on 8-10-1982, as he was not held eligible for promotion. But, thereafter he was assessed "Fit for promotion" and accordingly, he was promoted as S.I. (scale Rs.550-750 (R) w.e.f. 26-3-1982, on the basis of his passing the written test. Consequently, he had been assigned correct seniority.

Admittedly, he had not made any personal representation against it and the denial of promotion. The communications contended in letter dated 19-2-1987 addressed to the General Secretary, W.R.E.U. with reference to the grievance, if any, raised in 1986 in some meeting, cannot furnish a cause of action to the petitioner to agitate the claim for promotion to the post in question, which has been denied to him since 1980.

Pravin
(P. H. Trivedi)
Vice Chairman

Joshi
(P. M. Joshi)
Judicial Member