

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

**OA No.896/2014
MA No.807/2014**

This the 8th day of February, 2018

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. Uday Kumar Varma, Member(A)**

Smt. Meena Kumari
Administrative Assistant 'B'
Directorate of CW&E/RD-28
Sena Bhawan 'B' Wing
DHQ, PO, New Delhi-110011.Applicant

(By Advocates: Shri Ananya Mishra and Shri Samrat Singh)

Vs.

1. Union of India through Secretary
Ministry of Defence
Research & Development Organization
Directorate of Personnel
'B' Wing, Sena Bhawan
DHQ, PO, New Delhi-110011.
2. The Chief Construction Engineer(R&D)
Post Box No.1569, Akbar Road
Secunderabad 500003
Andhra Pradesh
3. The Chief Construction Engineer (R&D) North
Development Enclave
Behind Army HQ Camp
Rao Tula Ram Marg
New Delhi-110010.
4. The Chief Executive
Dte of Civil Works & Estates/RE-28
'B' Wing, 1st Floor
Sena Bhawan
New Delhi-110011.

5. Shri Anandas
Administrative Officer
DLRL Chandrayan Gupta Line
Hyderabad 500 005.

6. Shri B. Mdhursudhana Rao
Flat No.104, Chandra Residency
Mahatma Nagar
Old Bowenpalli Manovikas Nagar
Secunderabad 500 009. Respondents

(By Advocate: Shri Satish Kumar)

Order (Oral)

Justice Permod Kohli, Chairman

M.A. No. 807/2014

This Application has been filed seeking condonation of delay in filing the OA. No period for delay has been specified. From the relief part, we find that the applicant has challenged order dated 20.07.2005 whereby her representation was rejected. The applicant is also seeking promotion to the post of UDC w.e.f. 01.01.1996 with a further direction for implementation of the letter dated April 2012 and 19.06.2012 of the Department of HRD of respondent No.1. Order dated 20.07.2005 is on record. The aforesaid order reads as under:-

"With reference to your representation dated 27th April 2005 received through Dte of CW&E, DRDO HQ, on the above subject, I am directed to say that the matter regarding your promotion to Adm Asstt 'B' w.e.f. Dec 1995 after being eligible, has been examined in consultation with DOP, DRDO HQrs. It is pointed out that you could not be promoted immediately after your eligibility since

the higher post of OS in the PE had been encadered and filled by CAO's office and no vacancies were available in AA 'B' grade. You have been promoted on the recommendations of DPC-III on 01st Dec 1997, when a vacancy was available. There is, therefore, no justification for ante dating your promotion to the grade of Adm Astt 'B'."

This order clearly contains all the grounds for rejecting the contention of the applicant. The claim of the applicant is that vacancy was available even in the year 1996 when she was denied promotion. The applicant seems to have made further representations thereafter. It seems that on one such representation, a note dated 07.02.2012 (Annexure 3) was recorded by one Smt. S. Gupta, the then Joint Director, HRD. In para 7 of the said note, it is stated that authorization of posts sanctioned vide letter dated 20.01.1992, continued for next seven years till it was revised vide letter dated 01.12.1999. The note further reveals that the authorization of administrative posts was 6 and the held strength in 1995 was 4, leaving 2 clear vacancies therein. It is also recorded that the record does not explain as to why the establishment did not hold DPCs in 1995 and 1996. Reference is made to the promotion of the applicant in December, 1997. This note was followed by another note dated 19.06.2012, initiated by the same officer recommending holding of DPC for 1996 under special circumstances. Based

upon these notes, the applicant has filed this Application seeking the reliefs claimed in the OA.

2. The respondents disputed the existence of note dated 19.06.2012 whereupon the respondents were directed to ascertain the fact from the officer who initiated the note and file an affidavit whether this document ever existed or not. It appears that the respondents constituted a Committee of three officers. The committee is alleged to have held an inquiry and arrived at the conclusion that this document was generated in DHRD, DRDO, HQ and it was sent to DCWE. It further says that no conclusion can be drawn regarding the level from which it was approved. From the additional affidavit filed by the respondents, we find that the note was initiated by Smt. S. Gupta who was Joint Director at the relevant time and is presently Principal Director, DGQA. However, the Committee constituted consisted of with three very junior officers.

3. Be that as it may, it is settled law that continued representations do not expand the limitation. The applicant's claim was rejected in the year 2005. The claim pertains to the year 1996. In para 4.21 it is stated that respondent Nos. 5 and 6, who were junior to the applicant, were promoted on 01.06.1997 and they were shown higher in the seniority list

dated 01.07.2004. Taking note of this averment, it can be safely drawn that the applicant would have been within her right to challenge the promotion of respondent Nos. 5 and 6 at the relevant time particularly when the seniority list was notified in the year 2004, irrespective of the fact whether any vacancy existed prior to the applicant's promotion or not. The applicant in the meantime earned three promotions. It may be totally inappropriate to disturb the settled position at this belated stage. The applicant could have conveniently approached the Tribunal challenging the promotion of the juniors seeking quashment of promotion of the junior most and her own promotion in her place. That having not been done, the OA which is filed on 05.03.2014, is highly belated and barred by time. From the condonation Application we find that there are no satisfactory grounds urged which may persuade the Tribunal to condone the delay. This is irrespective of the fact whether in the note dated 19.06.2012 any right of the applicant has been acknowledged. Such a long delay from 2005 to 2012 remains unexplained. No valid ground to condone the delay.

4. For the above reasons, we dismiss the condonation Application and consequently the OA.

(Uday Kumar Varma)
Member(A)

(Justice Permod Kohli)
Chairman

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