

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**  
**OA/050/00221/16**  
**With**  
**MA/050/00336/19**

Date of Order: 26.09.2019

**C O R A M**  
**HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER**  
**HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

Krishna Kumar Sharma, Son of Late Ram Badan Sharma, at present serving as a Driver (Ordinary Grade) at Jawahar Navodaya Vidyalaya, Supaul District Supaul (Bihar), PIN: 852131 and permanent resident of Village- Bakhari, PO- Janardanpur, PS - Kalyanpur, District- Samastipur (Bihar), PIN: 848101.

.... Applicant.

By Advocate: - Mr. S.K. Singh

-Versus-

1. The Union of India through the Secretary, Ministry of Human Resource Development Department, Government of India, New Delhi- 110001.
2. The Commissioner, Navodaya Vidyalaya Samiti, B-15, Institutional Area, Sector-62, NOIDA (U.P.)- 201309.
3. The Joint Commissioner (Personnel/Administration), Navodaya Vidyalaya Samiti, B-15, Institutional Area, Sector-62, NOIDA (U.P.), PIN: 201309.
4. The Deputy Commissioner, Navodaya Vidyalaya Samiti, Regional Office, Boring Road, Patna- 800013.
5. The Principal, Jawahar Navodaya Vidyalaya, Supaul, District- Supaul (Bihar), PIN: 852131.
6. Mr. Manas Ranjan Chakraborty, Ex-Deputy Commissioner and Asstt. Navodaya Vidyalaya Samiti, Regional Office, Boring Road, Patna through Deputy Commissioner, N.V.S, Regional Office, Boring Road, Patna- 800013.

.... Respondents.

By Advocate: - Mr. G.K. Agrawal

**O R D E R**  
**[ORAL]**

**Per Dinesh Sharma, A.M:-** In the instant OA the applicant has requested for quashing the first paragraph of letter dated 08.04.2015 and for granting him promotion to Driver Grade-II w.e.f. 2007 as per DoP&T

Circular dated 27.07.1995. The applicant states that he became eligible as per the above quoted departmental circular after 9 years of experience but he was not given promotion in the year 2007 when it became due though in a letter issued on 06.12.2007 there is a mention of a telephonic conversation for sending three drivers (including himself) for trade test to consider their upgradation to Grade-II. This information was not provided to him and another person, Shri Asgar Ali who was junior to him was selected following this test.

2. The respondents have filed a written statement in which they have denied the claim of the applicant. They have stated that the OA is time barred since he has questioned the promotion carried out in the year 2007 by assailing a communication issued in the year 2015 thus trying to cover up delay which may not be allowed. They have also stated that they have forwarded the application of the applicant for granting him the benefit of MACP as he has served for 17 years and could not be promoted to the Driver's grade.

3. The applicant has filed a rejoinder reiterating his case and stated that there has been foul play in selection process in not calling him for the trade test in the year 2007.

4. We have gone through the pleadings and heard the arguments of learned counsels for the parties. The applicant is claiming promotion since the year 2007 but has given no satisfactory reason for not preferring his claim for promotion in all these past years. The applicant has not even made a request for condonation of delay and the miscellaneous application

filed by him (No. 336 of 2019) is only for allowing him to add names of two Drivers as necessary parties whom he alleges to have been promoted out of turn. A request for promotion on ground that a person junior to him was promoted in the year 2007 is clearly barred by time. Since if the cause of action arose in that year the applicant should have approached this Tribunal within one year from that date or from the date when he became aware of this alleged injustice. The applicant has only vaguely mentioned in general terms about how he has been pursuing with the Department for getting his promotion. This is not enough ground for condonation of delay which he has not even asked for. Though the OA does mention (by way of unauthenticated handwritten edition in paragraph-3 ) that in this case there is a recurring cause of action, we do not see any evidence of such recurring cause of action. The respondents have already conceded in their written statement (though the applicant has not asked for it) that his case will be considered for MACP which we think should redress the applicant's grievance of not getting promotion. Since the request of the applicant is very much barred by period of limitation and there is not even an application for condonation of delay, we are constrained not to accept his prayer. The OA and MA are, therefore, dismissed. No order as to costs.

**[Dinesh Sharma ]**  
**Administrative Member**  
**Srk.**

**[J.V.Bhairavia]**  
**Judicial Member**