

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (C.) No.13076/2009**

% **Date of Decision: 04.02.2010**

Sh. Prem Singh Petitioner
Through Mr. A.K. Mishra, Advocate.

Versus

Union of India & Ors. Respondents
Through Nemo

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MR. JUSTICE MOOL CHAND GARG

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| 1. | <i>Whether reporters of Local papers may be allowed to see the judgment?</i> | YES |
| 2. | <i>To be referred to the reporter or not?</i> | NO |
| 3. | <i>Whether the judgment should be reported in the Digest?</i> | NO |

ANIL KUMAR, J.

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The petitioner has challenged the order dated 12th September, 2008 passed in OA No. 1985/2008 titled as Sh. Prem Singh Vs. UOI & Ors. dismissing his petition seeking direction to the respondent to assign him seniority over and above his juniors along with all consequential benefits.

The petitioner was appointed on the post of Sepoy on 17th June, 1976 and promoted as LDC on ad-hoc basis in October, 1981 along with other group D employees. Adverse remarks were reflected from his

ACR because of which he was not promoted and was reverted to the substantive post of sepoy by order dated 25th September, 1985.

The petitioner had challenged the order of reversion which was quashed by order dated 12th January, 1987 and he was restored to the post of LDC.

Though the juniors to the petitioner were promoted however on account of adverse remarks against the petitioner, he was ineligible for promotion for a few years and was found fit for promotion only in the year 1990.

The petitioner, however, claimed his seniority from the date his juniors were promoted by filing OA No. 505/1988 which was dismissed by order dated 12th August, 1993. The petitioner challenged the order dated 12th August, 1993 by filing the writ petition which was, however, withdrawn by him. The petitioner did not challenge the adverse remarks which had been given to him.

The petitioner, thereafter, again made representation to change his seniority, which relief had already been declined to him, however, his representation was again rejected on 23rd May, 1997. From 1997 the petitioners started making representations, the last being dated 18th

July, 2007.

Since the seniority of the petitioner was not changed, he filed yet another OA No. 2210/2007 before the Tribunal, in which the Tribunal directed the respondents to decide the representation of the petitioner by order dated 29th November, 2007. Pursuant to the directions to the respondent, the representation made by the petitioner was considered and rejected by order dated 12th March, 2008 against which the petitioner filed OA No. 1985/2008 which has been dismissed by order dated 12th September, 2008 which is challenged before us.

The Tribunal has noted that the pleas raised by the petitioner in O.A No.1985/2008 were also raised in OA No. 505/1988, which was decided on 12th August, 1993 and his pleas were rejected.

Against the dismissal of the OA 505/1988, a writ petition was filed which was withdrawn with permission to challenge the adverse remarks. The petitioner, however, did not challenge the adverse remarks contained in the ACRs. In the circumstances, the Tribunal has held that the pleas and contentions which were raised in OA 505/1988, which was decided on 12th August, 1993 are exactly the same which have been raised by the petitioner in OA 1985/2008. In the circumstances it has been held that the petitioner is not entitled to

raise the same pleas and contentions again after fifteen years.

The petitioner could not give any cogent answer as to how the same pleas, which were rejected by order dated 12th August, 1993 could be raised again. Since no plausible answer had been given, this also prompted the Tribunal to dismiss the petition.

Learned counsel for the petitioner has not been able to make out any ground as to why pleas which have been rejected by order dated 12th August, 1993 should be allowed in another petition filed after about 15 years. There are no other grounds to interfere with the order of the Tribunal dismissing the petition in the facts and circumstances. The writ petition is therefore without any merit and is liable to be dismissed. The writ petition is therefore dismissed.

ANIL KUMAR, J.

FEBRUARY 04, 2010
'rs'

MOOL CHAND GARG, J.