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

***Date of decision: 24.07.2025***

+ W.P.(C) 13223/2019  
SATYA BIR SINGH

.....Petitioner

Through: Mr.Sourabh Ahuja, Adv

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr.Pradeep Kumar Jha, SPC  
for UOI

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE MADHU JAIN**

**NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed challenging the Order dated 23.09.2019 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal'), in O.A. No. 2822/2019, titled ***Sh. Satya Bir Singh v. The Union of India & Ors.***, dismissing the O.A. filed by the petitioner herein on the ground that it is being barred by limitation.

2. The learned counsel for the petitioner submits that the claim of the petitioner for the grant of Non-Functional Upgradation was based on the judgment dated 06.09.2010 of the High Court of Judicature at Madras in W.P.(C) 13225/2010, titled ***M. Subramaniam v. Union of India & Ors.*** The Civil Appeal against the said judgment, being Civil



Appeal No. 8883/2011, was dismissed by the Supreme Court *vide* Order dated 10.10.2017. The Review Petition against the same, filed by the respondents, being Review Petition No. 2512/2018, was also dismissed *vide* Order dated 23.08.2018.

3. The learned counsel for the petitioner further submits that the judgment of the High Court of Madras in ***M. Subramaniam*** (supra) was a judgment *in rem* and not *in personam*, as would be evident from a reading of paragraph 8 of the same, which is reproduced below:

*“8. Thus, if the officer has, completed 4-years on 1.1.2006 or earlier, he will be given the non-functional upgradation with effect from 1.1.2006 and if the officer completes 4-year on a date after such 1.1.2006, he will be given non-functional upgradation from such date on which he completes 4-year in the pay scale of Rs.7,500-12,000 (pre-revised), since the petitioner admittedly completed 4-year period in the pay scale of Rs.7500-12000 as on 1.1.2008, he is entitled to grade pay of Rs.5400/-. In fact, the Government of India, having accepted the recommendations of the 6th Pay Commission, issued a resolution dated 29.8.2008 granting grade pay of Rs.5400/- to the Group B Officers in pay Band 2 on non-functional basis after four years of regular service in the grade pay of Rs. 4800/- in pay band 2. Therefore, denial of the same benefit to the petitioner based on the clarification issued by the Under Secretary to the Government was contrary to the above said clarification and without amending the rules of the revised pay scale, such decision cannot be taken. Therefore, we are inclined to interfere with the order of the Tribunal.”*

4. The learned counsel for the petitioner further places reliance on the judgment of the Supreme Court in ***State of Uttar Pradesh & Ors.***



*v. Arvind Kumar Srivastava & Ors.*, (2015) 1 SCC 347, to submit that where a judgment is in *rem*, its benefit must be extended by the Government to all similarly situated officers, without insisting on them to approach the Court/Tribunal to seek similar relief.

5. The learned counsel for the respondents, on the other hand, reiterates that the O.A. filed by the petitioner was highly belated and, therefore, has been rightly dismissed on the ground of limitation.

6. We find that the issue as to whether the judgment of the High Court of Judicature at Madras in *M. Subramaniam* (supra) has to be treated as a judgment *in rem* or a judgment *in personam*, has not been considered by the learned Tribunal while passing the Impugned Order. Needless to state, if it was a judgment *in rem*, it was for the respondents to have extended the same benefit to the petitioner, without forcing the petitioner to approach the learned Tribunal for such similar relief. The effect of dismissal of the Civil Appeal as also the Review Petition by the Supreme Court, *vide* Orders dated 10.10.2017 and 23.08.2018, respectively, also needed to be considered by the learned Tribunal.

7. We, therefore, set aside the Impugned Order, restore the O.A. to its original number and remand the same back to the learned Tribunal. The learned Tribunal shall consider the issue of limitation afresh in the light of the parameters laid down by the Supreme Court in *Arvind Kumar Srivastava* (supra), and in case, it finds that the O.A. was filed within the period of limitation as prescribed in Section 21 of the Administrative Tribunals Act, 1985, it shall proceed to consider the claim of the petitioner on merits. The learned Tribunal shall also be



2025:DHC:6079-DB



entitled to mould the relief, if the facts of the case so warrant.

8. The parties shall appear before the learned Tribunal on 18<sup>th</sup> August, 2025. The learned Tribunal is requested to expedite the hearing of the O.A.

9. The petition is disposed of in the above terms.

**NAVIN CHAWLA, J**

**MADHU JAIN, J**

**JULY 24, 2025/rv/SJ**