



thereunder and affording him an opportunity of being heard. The punishment of severe reprimand without adhering to the procedures should not have been taken into account while considering him for promotion to the rank of Subedar Major.

2. The applicant joined Army on 4.1.1983 as Sapper Clerk (GD). In July 1986, he was promoted to the rank of Naik, in January 1989 as Havildar and in January 1999 as Naib Subedar. On 19.5.1999, the identity card issued to him was lost, which was informed to his senior official. Disciplinary proceedings were initiated against him, which resulted in awarding him a severe reprimand. On 22.3.2006, the applicant was promoted to the rank of Subedar. During 2008 and 2009, he was denied promotion to the rank of Subedar Major supposedly on account of the punishment of severe reprimand. In the year 2010 also, the name of the applicant was not considered probably because of the severe reprimand. Learned counsel for the applicant submitted that the applicant was not communicated the said punishment of severe reprimand. Therefore, the entry of severe reprimand should not be taken as an obstruction for his promotion to the rank of Subedar Major.

3. The application has been resisted from the side of the respondents contending, inter alia, that indirectly the challenge is against the entry of severe reprimand for the year 1999. The relief for further promotion of the applicant is dependent upon the said entry, which was sought to be set aside after eleven years. The O.A is, therefore, stated to be barred by delay and laches. Further, it has been pointed out by Lt. Col. Arun Sharma that the adverse entry was recorded in the dossier of the applicant and communicated to him.

4. On the question of delay and laches, much thrust was laid by learned counsel for the appellant that in the absence of any communication in writing, the question of challenging that order of 1999 does not arise. Therefore, the delay and laches would have no significance. Had he been communicated about the adverse entry, he would have challenged it. It is to be noted that the adverse entry was made in his dossier sometime in the year 1999 itself. Therefore, after a long period of 11 years, there appears to be no justification to look into the merits of such an adverse entry. In **Sawaran Lata and others v. State of Haryana and others** (JT

2010(3) SC 602), while considering the question of delay and laches, the apex Court observed that the matter should have been challenged before it attained finality. It would be appropriate if we quote paragraphs 7 and 8 of the said decision, viz.:

“7. A Constitution Bench of this Court, in *Aflatoon & Ors. v. Lt. Governor, Delhi & Ors.* (AIR 1974 SC 2077), while dealing with the issue, observed as under:

“..... to have sat on the fence and allowed the government to complete the acquisition on the basis that notification under Section 4 and the declaration under Section 6 were valid and then to attack the notification on the grounds which were available to them at the time when the notification was published, would be putting a premium of dilatory tactics. The writ petitions are liable to be dismissed on the ground of laches and delay on the part of the petitioner.”

8. Same view has been reiterated by this Court observing that acquisition proceedings should be challenged before the same attain finality. In *State of Mysore v. V.K Kangan* (AIR 1975 SC 2190); *PT. Girdharan Prasad Missir v. State of Bihar* (1980(2) SCC 83); *Bhoop Singh v. Union of India* (JT 1992(3) SC 322 : AIR 1992 SC 1414); *State of Orissa v. Dhobei Sethi & Anr.* (JT 1995(6) SC 624 : 1995(5) SCC 583); *State of Maharashtra v. Digambar* (JT 1995(9) SC 310 : AIR 1995 SC 1991); *State of Tamil Nadu v. L. Krishnan* (JT 1996(1) SC 660 : AIR 1996 SC 497); and *C. Padma & Ors. v. Dy. Secretary to Govt. of Tamil Nadu & Ors.* (JT 1996(Suppl.) SC 263 : 1997(2) SCC 627).”

Viewed in this light, the challenge on the basis of the entry of severe reprimand after a lapse of over eleven years cannot be looked into in this application.

5. We are not inclined to admit this O.A and in the result, it is dismissed on the ground of delay and laches.

**(S.S DHILLON)**  
**MEMBER**

**(S.S KULSHRESTHA)**  
**MEMBER**