

IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI

AND

HON'BLE SRI JUSTICE RAKESH THAPLIYAL

WRIT PETITION (S/B) NO. 367 OF 2023

11TH AUGUST, 2023

BETWEEN:

Hasrat Khan Petitioner.

And

Union of India & others Respondents.

Counsel for the Petitioner : Mr. Abhishek Srivastava, learned counsel.

Counsel for the Respondents : Mr. Atul Bhatt, learned Standing Counsel.

The Court made the following:

JUDGMENT:(per Hon'ble The Chief Justice Sri Vipin Sanghi)

The petitioner has preferred the present writ petition to assail the judgment and orders passed by the Armed Forces Tribunal, Lucknow Bench in Review Application No.53 of 2019, dated 16.10.2019, which had been preferred against the order dated 09.08.2017, passed by the same Tribunal in Transfer Application No.31 of 2017. The petitioner also assails the original judgment of the Tribunal dated 09.08.2017.

2. The petitioner had preferred the writ petition, being Writ Petition (S/S) No.381 of 2017 before this Court in relation to the recruitment process initiated by the respondents, way-back in the year 2016. That writ petition, along with several others, raising a similar dispute, was transferred to the Armed Forces Tribunal, by this Court.

3. It appears that the Tribunal re-transferred some of those writ petitions to the High Court on the ground that the dispute regarding recruitment could not be raised before the Tribunal, and that the Tribunal did not have the jurisdiction to deal with the same. However, in the case of the petitioner, even though, the petitioner pointed out at the hearing of the Transfer Application No.31 of 2017, that the Tribunal did not have the jurisdiction to deal with the dispute raised by the petitioner, the Tribunal rejected the said argument and proceeded to deal with the Transfer Application on merits, and rejected the same on 09.08.2017.

4. Admittedly, the petitioner did not take any recourse against the said order of the Tribunal for nearly two years. Thereafter, the petitioner preferred Original Application No.37 of 2019, *inter alia*, seeking the recall of the order dated 09.08.2017, passed in T.A. No.31 of 2017 on the ground that the same was without jurisdiction.

5. The petitioner also sought a direction for transfer of the record back to this Court in 2019. The said O.A. was rejected by the Tribunal on 17.01.2019.

6. The petitioner had also preferred Review Application No.53 of 2019 with M.A. No.872 of 209 in T.A. No.31 of 2017, which too was rejected on 16.10.2019.

7. The petitioner has now preferred the present writ petition, six years after the passing of the original order in T.A. No.31 of 2017, and over four years after the passing of the impugned order dated 16.10.2019.

8. In our view, the present writ petition is highly belated and clearly barred by delay and laches. The dispute raised by the petitioner is in relation to the recruitment process undertaken in the year 2016.

9. We are, therefore, not inclined to entertain the present writ petition. The writ petition is, accordingly, dismissed.

10. Pending application, if any, also stands disposed of.

(VIPIN SANGHI, C.J.)

(RAKESH THAPLIYAL, J.)

Dated: 11th August, 2023

NISHANT