

Court No. - 21

Case :- WRIT - A No. - 19568 of 2023

Petitioner :- Shivdhayan Tiwari

Respondent :- The State Of U.P. And 2 Others

Counsel for Petitioner :- Aditya Prakash Verma, Shailesh Verma

Counsel for Respondent :- C.S.C.

Hon'ble Manoj Kumar Gupta, Acting Chief Justice

Hon'ble Donadi Ramesh, J.

1. The instant petition has been filed challenging the order dated 21.05.2008 passed by respondent no.3 and the order dated 26.02.2022 passed in appeal by respondent no.2.

2. The engagement of the petitioner as homeguard was terminated on 21.5.2008 due to unauthorized absence from duty. Concedely, after the passing of the said order, the petitioner had not worked as homeguard. However, his case is that he could obtain termination order by filing R.T.I. application on 24.3.2022 and thereafter filed appeal against the termination order, which has been dismissed by order dated 26.2.2022 on the ground that it had been filed after fourteen years of termination.

3. The petitioner has also challenged Clause 2 (4) of the Government Order dated 2.12.2016, which stipulates that a homeguard after expiry of six years of dispensation of his services, would not be entitled to re-engagement.

4. At the time of making oral submissions, learned counsel for the petitioner did not address on the validity of the Government Order but submitted that in some identical cases, learned Single Judges of this Court had directed the person to file appeal within specified time and whereupon, the appellate authority

was directed to decide the appeal on merits, ignoring the delay. He submits that similar order may be passed in the instant matter as well.

5. The order of learned Single Judge, on basis of which parity is being claimed, reveals that therein there was delay of six years and on the facts of that case, learned Single Judge issued direction for entertaining appeal on merits. However, in the instant case as noted above, the appeal was filed after fourteen years of passing of the termination order. The order of the appellate authority dismissing the appeal is also dated 26.02.2022. The petitioner again waited for almost two years and filed the instant petition on 9.11.2023.

6. We find no good ground to re-open the matter at this distance of time. The position must have undergone complete change by now. The petitioner was highly negligent and we decline to exercise our jurisdiction under Article 226 of the Constitution, in such a case.

7. Consequently, the petition is dismissed.

(Donadi Ramesh, J.)

(Manoj Kumar Gupta, ACJ.)

Order Date :- 2.12.2023

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