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

Date of hearing and order: 27th February 2015.

+ W.P.(C) 1887/2015
SUNDER LAL

..... Petitioner

Through: Mr. Ram Naresh Yadav, Advocate

versus

KENDRIYA VIDYALAYA SANGATHAN & ORS

..... Respondents

Through: Dr. Puran Chand, Mr. S. Rajappa,
Advocates

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

27.02.2015

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KAILASH GAMBHIR, J. (Oral)

By this petition filed under Articles 226 & 227 of the Constitution of India, petitioner seeks to challenge the order dated 22.12.2011 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 15/2011.

Mr. Ram Naresh Yadav, Advocate appearing on behalf of the petitioner submits that the petitioner was on leave from 17.5.1999 to 25.9.2000 and he was not allowed to join back his duties on 26.09.2000. The

learned counsel for the petitioner also submits that the petitioner had been writing letters to the respondents raising protest for not permitting him to join back his duties, but the respondents have not responded to the request made by the petitioner. Counsel further submits that for the first time the petitioner had received a Memorandum dated 9.3.2009 informing him about his removal from service w.e.f. the date of his remaining absent from duties, i.e., 17.5.1999. Counsel further submits that the said order dated 9.3.2009 was challenged by the petitioner before the Appellate Authority but the Appellate Authority vide orders dated 24.12.2009 has also dismissed the appeal preferred by the petitioner on untenable grounds. The learned counsel for the petitioner further submits that vide fresh Memorandum dated 30.12.2010 issued by the respondents they had modified the order dated 9.3.2009 by treating the period of absence of the petitioner from service i.e. 17.5.1999 to 3.9.2000 as *dies non* for all purposes and termination to become effective from 4.9.2000.

The main grievance raised by petitioner is that the respondent has taken more than ten years in taking a decision to remove the petitioner from service that too without serving any show cause notice upon him and also without taking into consideration the various letters/representations sent by

the petitioner requesting the respondents to permit him to join back on his duties.

Dr. Puran Chand, Advocate appears on behalf of the respondent on advance notice.

We have heard the learned counsel for the petitioner and also perused the material on record.

Indisputably the petitioner remained absent from his duties w.e.f. 17.5.1999 to 25.9.2000 and thereafter also till 30.12.2010. Petitioner thus remained absent for more than ten years and therefore the petitioner remained absent from his duties unauthorizedly for such a long period with no explanation to offer. To say that the petitioner kept on writing to respondents or making certain representations, to request the respondents to permit him for joining back to his duties can hardly be the reason which can be accepted by the Court. If for any reasons the respondents was not permitting the petitioner to join back on his duties then it was for the petitioner to have taken legal recourse and not merely writing letters or sending representations. The negligence and reckless conduct of the petitioner in not joining back his duties for such a long period does not entitle him to the grant of any relief in the exercise of writ jurisdiction of this

Court.

No doubt, there has been a delay at the end of the respondents in taking a decision to remove the petitioner from service but looking into the conduct of the petitioner himself, we do not attach much weightage to such a lapse on behalf of the respondent.

We find no merit in the contentions raised by the petitioner and there is no ground to entertain the present petition therefore the same is hereby dismissed. No costs.

KAILASH GAMBHIR, J

I.S. MEHTA, J

FEBRUARY 27, 2015

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