

\$~02.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7742/2015 & CM APPLS.NO.15208/2015 AND 15209/2015**

% ***Judgment dated 25th August, 2015***

CONSTABLE RAM KISHAN Petitioner
Through : Mr.K.P. Mavi, Mr.B.P. Mishra and
Mr.Ram Kumar Jha, Advs.

versus

GOVT. OF NCT OF DELHI & ORS Respondents
Through : Mr.Abhinav Singh and Mr.Vinod Goyal,
Advs. for the respondents.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. Present writ petition has been filed by the petitioner under Articles 226 and 227 of the Constitution of India seeking a direction to quash the Order dated 2.3.2009 passed by Central Administrative Tribunal (hereinafter referred to as the 'Tribunal') in O.A.No.2024/2007. The petitioner along with the present petition has also filed an application, being CM APPL.No.15208/2015, seeking condonation of delay of 2062 days in filing the present writ petition, besides the application, being CM APPL.No.15209/2015, seeking condonation of 375 days delay in re-filing the present petition.
2. The brief facts of the case, as per the petitioner, are that in the year 1990 the petitioner had joined the Delhi Police as a Constable and was initially posted with Delhi Armed Forces. On 18.5.2005 a departmental enquiry

was ordered against the petitioner alleging that while posted at a Police picket near Jawahar Nagar, Loni Road, on 25.3.2005, the petitioner along with one, Constable Bal Kishan, had stopped a tractor and demanded money, which were recovered from their possession, on a search conducted. On 7.6.2005, the petitioner had sought a copy of the video film, which was sought to have been prepared during surveillance, although no copy of the video film was provided to him. The Enquiry Officer submitted his report to the disciplinary authority on 10.1.2006. The petitioner was dismissed from service by the Disciplinary Authority vide order dated 28.4.2006. On 22.5.2006, the petitioner filed an appeal under Section 23 of Delhi Police Act (Punishment and Appeal) Rules 1980, against the Order dated 28.4.2006. The appeal was dismissed by the Appellate Authority on 1.2.2007. The petitioner thereafter approached the Central Administrative Tribunal by filing O.A.No.2024/2007, which was dismissed by the Tribunal on account of delay and laches.

3. As far as delay in filing the present petition is concerned, the petitioner in CM APPL.15208/2015 has averred that after the impugned order was passed by the Tribunal he could not approach the High Court on time as his father was suffering from cancer, who was in the last stage and who died on 3.1.2010, and all his resources were consumed in the treatment of his father. Further it is averred in the application that in the month of July, 2015, the case file was given to a counsel, who did not pursue the matter, and even did not remove the objections. Similar grounds have been urged with regard to the application (CM APPL.No.15209/2015) seeking condonation of delay in re-filing the writ petition.
4. On the merits of the matter, learned counsel for the petitioner submits that the impugned order passed by the Tribunal is improper, illegal and arbitrary. Counsel further submits that the entire departmental enquiry is

based on suspicion, which cannot be allowed to take place of proof even in the case of a domestic enquiry. It is further submitted that the minimum requirement of the principle of natural justice should have been followed. It is also contended that the star witnesses did not support the case of the respondents.

5. Learned counsel for the respondents fairly submits that the OA filed by the co-defaulter, Constable Bal Kishan, was dismissed by the Tribunal and the writ petition filed against the aforesaid order passed by the Tribunal was also dismissed by a Division Bench of this Court vide Order dated 10.9.2009, a copy of which has been handed over in Court today.
6. We have heard learned counsel for the parties and also perused the Order dated 10.9.2009 passed by the High Court. We find no grounds to take a different view than the view taken by the Tribunal and the Division Bench in W.P.(C) 11571/2009. For the detailed reasons in the Order dated 10.9.2009, we find no merit in this petition. Additionally, we also find that the present petition is patently barred by delay and laches.
7. Accordingly, writ petition and applications for condonation of delay in filing and delay in re-filing the present petition, being CM Appls.No.15208/2015 and 15209/2015, respectively, stand dismissed in view of above.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 25, 2015

msr