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

+ **W.P.(C) 8250/2015**

POTDAR GOVIND SOPAN RAO

..... Petitioner

Through: Mr. Siddharth Tyagi, Advocate.

versus

BORDER SECURITY FORCE AND ANR

..... Respondents

Through: Mr. Anurag Ahluwalia, CGSC
alongwith Mr. Prashant Ghai and Mr.
Arvind Sharma, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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28.08.2015

The petitioner was appointed as a Constable (GD) on 15.01.2000 by the Border Security Force and he joined the 45th Battalion on 10.07.2001 after completion of training. He availed all 60 days earned leave on 07.03.2006 and thereafter did not report for duties. He had approached this Court claiming that the order of termination made on 23.09.2006 is illegal because he was never notified of any enquiry or even made aware of the communication issued by the BSF on account of his absence. It is stated that the petitioner was unable to report for duties on account of his illness i.e. lambago with Sciatica, mental anxiety with weakness. A certificate dated 19.02.2014 has been relied upon for this purpose; it was issued by one "Inamdar Clinic".

It is contended by the petitioner's counsel that the principles of

natural justice were ignored because no enquiry was held on account of his absence and he was not even made aware of the final order much less a show-cause notice issued to him. The counsel for the respondents appearing on advance notice stated that the petitioner has suppressed the material circumstances i.e. he approached the Bombay High Court in writ proceedings (being W.P stamp No. 28867/2014). Since the proceedings were defective and no attempt was made by the petitioner to have it cured, the petition was struck off the file by an order of the Registry on 19.04.2015; he relies on a copy of the said order which is shown to the Court.

This Court has considered the submissions. The petitioner had served the BSF for about 5 years but when he sought 60 days leave, he over-stayed. Even assuming that his explanation about illness was correct, the fact remained that he was aware of his employment and his duty to return. He never made any attempt to get in touch with the BSF authorities notifying them about his illness or attempting to report back at least when he recovered moderately so as to undergo medical examination. In these circumstances, the petitioner's plea cannot be given any credence. The writ petition is hopelessly barred on account of delay and laches and therefore dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

AUGUST 28, 2015

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