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

+ W.P.(C) 2320/2002

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***Judgment dated 16.11.2016***

**RAJBIR SINGH**

..... Petitioner

Through : Mr.Shanker Raju and Mr.Nilansh Gaur,  
Advts. along with petitioner.

versus

**UOI & ORS.**

..... Respondent

Through : Mr.Satyakam, ASC.  
ASI Baljeet Singh.

**CORAM:**

**HON'BLE MR. JUSTICE G.S.SISTANI**

**HON'BLE MR. JUSTICE VINOD GOEL**

**G.S.SISTANI, J (ORAL)**

1. Rule DB was issued on 13.05.2002.
2. Present petition has been filed by the petitioner under Articles 226 and 227 of the Constitution of India against the order dated 9.5.2001 passed by Central Administrative Tribunal (hereinafter referred to as '*the Tribunal*') whereby OA No.617/2000 filed by the petitioner herein was dismissed by the Tribunal primarily on the ground of limitation.
3. The brief facts of this case are that the petitioner joined Delhi Police as a Constable on 4.9.1978. On account of his unauthorised absence from service, DD 67 dated 3.2.1988 was recorded. Thereafter a Departmental Enquiry was initiated against the petitioner on 6.10.1988. The Disciplinary Authority vide order dated 14.6.1989 dismissed the petitioner from service. Thereafter the petitioner filed appeal against

the aforesaid order of dismissal, which was rejected vide order dated 9.10.1989. The petitioner thereafter filed revision petition, which was also dismissed on 29.3.1990, which led to the filing of the first OA, being OA No.1218/90, before the Tribunal. The Tribunal, vide order dated 20.9.1994, remanded the matter back to the Disciplinary Authority. This order of remand was primarily on two grounds, firstly, the past conduct of the petitioner was taken into account while no specific charge was framed against him and, secondly, on the proportionality of the punishment. By a subsequent order dated 29.12.1994, the Disciplinary Authority reinstated the petitioner in service, however, his eight years' qualifying service was forfeited and the period of absence from 3.2.1988 to 19.12.1988 was treated as '*Leave Without Pay*'. The petitioner thereafter made a representation. While deciding the representation, the Appellate Authority, vide order dated 12.8.1995, again passed an order of dismissal, which has led to the filing of the second OA, being OA No.617/2000, before the Tribunal, which was dismissed primarily on the ground of limitation.

4. Learned counsel for the petitioner has raised various grounds, *inter alia*, that (i) in fact no appeal was filed by the petitioner and it was only the representation, upon which the punishment could not have been enhanced; (ii) the order, by which the punishment has been enhanced, is devoid of any reason; *and* (iii) the Appellate Authority has failed to record a finding of the wilful absence from the service by the petitioner.
5. After some hearing in the matter, it is agreed that the matter be remanded back to the Tribunal for fresh hearings on merits. Ordered accordingly.
6. List this matter before the Tribunal on 8.12.2016. The Tribunal will decide the matter on the basis of existing pleadings without taking into

account the plea of limitation, which has been given up in this Court. Since the pleadings are already complete, we hope that the Tribunal would decide the matter expeditiously. We make it clear that we have not expressed any opinion on the merits of the matter.

7. At this stage, learned counsel for the petitioner, on instructions from the petitioner, who is present in Court, submits that the petitioner would not seek backwages and any increment, and in case the Tribunal finds favour, the petitioner would only restrict his prayer to the quantum of punishment and for grant of pensionary benefits. Petitioner would be bound by the statement made in Court today.
8. Petition stands disposed of.
9. DASTI.

**G.S.SISTANI, J**

**VINOD GOEL, J**

**NOVEMBER 16, 2016**

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