

\$~18

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 2417/2016 & C.Ms. 10334-35/2016
MANOJ KUMAR Petitioner
Through: Mr. Srinivasa Rao K., Advocate

Versus

THE DIRECTOR-GENERAL, INDO-TIBETAN BORDER
POLICE & ORS. Respondents
Through: Mr. Arun Bhardwaj, Central
Government Standing Counsel &
Ms. Mimansak Bhardwaj,
Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
% **21.03.2016**

C.M. 10334/2016 (u/S 151 CPC)

1. For the reasons stated in the application, particularly paras-1 & 2 thereof, the application is allowed and delay of 593 days in filing the accompanying petition is condoned.

2. Application is disposed of.

C.M. 10335/2016 (u/S 151 CPC)

Allowed subject to all just exceptions.

W.P.(C) 2417/2016 & C.Ms. 10334-35/2016

1. The present petition has been filed by the petitioner praying *inter*

alia for issuance of writ of certiorari for quashing of the order dated 17th July, 2013, passed by the respondent No.1- Director General, Indo Tibetan Border Police and order of the dismissal from service dated 9th March, 2011, passed by the respondent No.3- The Commandant, ITBP Force, Kharora Camp, Raipur.

2. Prior to filing the present petition, the petitioner had filed a writ petition challenging the dismissal order dated 9th March, 2011 [W.P.(C) 3751/2013], which was disposed of vide order dated 30th May, 2013, with directions issued to the respondents to consider and decide his appeal dated 28th February, 2013 on merits. It was specifically stated in the order dated 30th May, 2013, that the petitioner's appeal shall not be rejected on the grounds of delay and latches.

3. Learned counsel for the petitioner submits that despite the said directions, the respondents have passed a cryptic non-speaking order dated 17th July, 2013, whereunder the petitioner's appeal has been rejected on the ground that it is time barred and devoid of any merit. He submits that the aspect of delay has already been dealt with by the Division Bench in its order dated 30th May, 2013, whereunder it had been clarified that the petitioner's appeal ought not be dismissed on the ground of delay and latches and in this background, the respondents could not have raised the said ground and rejected the petitioner's appeal. Even the observation that the appeal is devoid of merits, does not offer any explanation for arriving at the said conclusion. In other words, the order passed by the respondents is non-speaking.

4. Notice.

5. Mr. Arun Bhardwaj, learned Central Government Standing Counsel, accepts notice and states that the department shall pass a speaking order in compliance of the order dated 30th May, 2013, passed in W.P.(C) 3751/2013 within four weeks, under written intimation to the petitioner.

6. The petition is disposed of with directions to the respondents not to consider the aspect of limitation, as raised in the impugned order dated 17th July, 2013 and decide the petitioner's appeal on merits by passing a speaking order, under written intimation to him.

7. The petition and applications are disposed of.

HIMA KOHLI, J

SUNIL GAUR, J

MARCH 21, 2016

r