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

+ **W.P.(C) 3486/2016**

ASHWANI KUMAR SHARMA Petitioner

Through Mr. A.K. Ojha, Advocate.

versus

UNION OF INDIA & ANR. Respondents

Through Mr. Jasmeet Singh, CGSC & Mr.
Nirvikar Verma, Advocate for respondent Nos. 1
and 2.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

27.04.2016

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Ashwani Kumar Sharma, by this writ petition, impugns order dated 16th January, 2014 passed by the Principal Bench of the Central Administrative Tribunal, New Delhi (Tribunal, for short) whereby his OA No. 140/2014 has been dismissed on the ground that the petitioner has not shown sufficient cause for condonation of delay of seven years and nine months.

2. The petitioner claims that he was entitled to arrears of servant allowance for the period 29th June, 2002 to 23rd February, 2006 when he was posted as Vice Counsel in the rank of Attache in the Consulate of India in Munich, Germany. The claim is in the sum of Rs.4,85,773/- as the principal

amount and Rs.3,25,183/- as interest. It is noticeable that the petitioner had retired from service on 31st January, 2013.

3. OA No. 140/2014 along with an application MA No. 152/2014 seeking condonation of delay in filing of OA was filed on or about 8th January, 2014. In the application seeking condonation of delay, the petitioner had accepted delay of about seven years and nine months. The plea was that in terms of para 9.49 of the NGO Handbook of Administrative Instructions, the petitioner was bound to wait for approaching the Court of law and he was required to desist from taking recourse to Court of law.

4. The Tribunal in the impugned order has noticed and referred to paragraph 9.49 of the NGO Handbook of Administrative Instructions, which stipulates that no action should be taken under any circumstances, including recourse to Courts of law which would directly or indirectly result in breach of security or enable outsiders and unauthorised personnel to come to know about the manner in which officers were deputed abroad. We do not think the aforesaid departmental instructions had prevented and barred the petitioner from raising his claim on or after 23rd March, 2006, when he returned to India. The said claim could have been raised by making appropriate pleadings without breaching and violating paragraph 9.49 of the NGO Handbook of Administrative Instructions. The claim for payment is predicated on the petitioner's posting in Munich, and is not relatable and

connected with the fact that the petitioner was a member of Cabinet Secretariat Service. We perceive and believe that the reliance placed on the said paragraph is by way of convenience as the petitioner did not have a valid ground and could not explain the long delay of seven years and nine months. The impugned order passed by the Tribunal has noticed all the relevant facts and has rightly rejected the application for condonation of delay. We do not see any reason to differ with the view taken by the Tribunal. The writ petition is dismissed.

SANJIV KHANNA, J.

NAJMI WAZIRI, J.

APRIL 27, 2016
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