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

+ **Writ Petition (C) No.9706/2016**

Date of decision: 21st October, 2016

KUMAR AVIKAL MANU

..... Petitioner

Through Mr. Raman Kapur, Sr. Adv. with
Mr. Manish Kumar, Mr. Yudhister
Singh and Mr. Piyush Kaushik,
Advs.

versus

UNION OF INDIA AND ANR

..... Respondent

Through Ms. Shiva Lakshmi, CGSC with Mr.
Ruchir R Rai, Adv. for R-1 & 2

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

SANJIV KHANNA, J. (ORAL):

CM No. 38838/2016

Exemption is allowed, subject to all just exceptions.

The application is disposed of.

W.P.(C) No. 9706/2016

1. The petitioner-Kumar Avikal Manu by this writ petition impugns the order dated 27.09.2016 whereby OA No.3929/2013 was dismissed on the ground of limitation.
2. The petitioner, who suffers from locomotor disability, had

qualified in the Civil Services Examination, 2006 and is an officer of the Indian Revenue Service (Income Tax).

3. The petitioner had earlier appeared in the Civil Services Examination, 2004, but was not appointed though he had secured merit rank of 400. Aggrieved, the petitioner had filed Writ Petition (C) No.3779/2007 titled “*Kumar Avikal Manu v. UOI & Ors.*”. The delay in filing the writ petition, it was asserted, was on account of delay in furnishing the relevant information and details under the Right to Information Act, 2005, whereupon the petitioner had learnt and understood the wrong perpetuated. A copy of this writ petition is not on record, but the orders passed by the Single Judge would indicate that the Union of India had offered appointment in the Indian Ordnance Factories Service. The order dated 17.08.2007 records the petitioner's willingness to accept the offer on the condition that the appointment would be effective from 2004, the year in which he appeared for the Civil Service Examinations, and grant of all benefits that would have accrued on appointment in 2004. Obviously, the respondents had not agreed to the conditions. During the course of hearing, learned senior counsel appearing for the petitioner has produced before us a copy of the said writ petition. The petitioner had prayed for appointment to the Indian Administrative Services or equivalent services in pursuance of the Civil Services Examination,

2004 with the consequential benefits of merit, seniority, promotion and monetary emoluments.

4. The Writ Petition (C) No.3779/2007 was withdrawn as recorded in the order dated 15.03.2010, for the petitioner had sought liberty to approach the Central Administrative Tribunal with the prayer seeking appointment to the Indian Administrative Service with consequential benefits. It was an order passed with the consent of the petitioner.

5. The petitioner did not file and initiate proceedings before the Tribunal for over three years, till 30.10.2013., when OA No. 3929/2013 was filed. The petitioner attempted to explain the delay professing that he was unaware and not informed of the order dated 15.03.2010 in the Writ Petition (C) No.3779/2007.

6. We would not accept this ground as a valid and good excuse for several reasons. The order dated 15.03.2010 specifically records that the writ petition was withdrawn with liberty to approach the Tribunal. It was consent order passed after taking into consideration the instructions obtained and given by the petitioner. The petitioner was certainly aware that he had offered appointment in the Indian Ordnance Factories Service, having given his conditional acceptance as recorded in the order dated 17.08.2007. The petitioner was surely interacting with his counsel and would have followed up

and asked him the result. It is apparent to us that the assertion and claim of nescience is unacceptable for it lacks credibility and is a feeble pretext and artifice to explain the unexplainable delay.

7. The petitioner having been appointed pursuant to the Civil Services Examination, 2006, was satisfied with his appointment in the Indian Revenue Service. Perhaps, he harboured the belief that his prayer for back-dated appointment from 2004 was rather difficult and tumultuous to meet acceptance. Appointment or selection in the Indian Administrative Service looked improbable and farfetched. He gave quietus to the matter. The petitioner's desire to revive the said issue was reignited in 2013 once he came to know about the decision of the Supreme Court in *Union of India vs. National Federation of the Blind and Ors.* (Civil Appeal No. 9096 of 2013). The decision was highlighted and given prominence in the newspapers. The petitioner has admitted having read about this decision in the newspapers in his pleadings in the OA No. 3929/2013.

8. In the facts of the present case, we feel that the Tribunal was justified in rejecting and not entertaining the original application on the ground of limitation. Reasonable inference must be drawn that the petitioner had accepted his appointment in the Indian Revenue Service. He was satisfied with this appointment and for this reason, did not file proceedings for over three years and six months after the

order dated 15.03.2010 was passed. Subsequently, in 2013 after the judgment of the Supreme Court, the petitioner thought that he could again raise his time-barred claim and seek appointment to the Indian Administrative Services on the basis of the result in the year 2004. It would be wrong to ignore and condone the acceptance and acquiescence on part of the petitioner and the resultant delay between 15.03.2010 and 30.10.2013. Pertinently, the claim of the petitioner pertains to the Civil Service Examination, 2004. Administrative difficulties in accepting such belated claims and prayers are apparent and can be easily fathomed.

9. In view of the said position, we are not inclined to interfere with the orders of the Tribunal in the present case. The writ petition is dismissed.

SANJIV KHANNA, J.

SUNITA GUPTA, J.

OCTOBER 21, 2016
VLD