

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

+ **W.P.(C) No. 8793/2015**

% **25th January, 2017**

KEWAL SINGH Petitioner

Through: Mr. Sourabh Ahuja, Advocate.

versus

GOVT. OF N.C.T. OF DELHI & ORS. Respondents

Through: Mr. Devesh Singh, Advocate for R-1.
Mr. Puneet Mittal, Advocate for R-2
and 3.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

C.M. Appl. No. 19510/2015 (for condonation of delay of 546 days in re-filing the petition)

1. Petitioner was guilty of repeated misbehavior with the staff of the school including the Head Mistress of the Delhi Public School/respondent nos. 2 and 3. After holding a detailed inquiry in which the petitioner participated, petitioner was inflicted a penalty from removal from services. Appeal filed by the petitioner before the Delhi School Tribunal was unsuccessful because the Delhi School Tribunal (DST) by its judgment dated 7.2.2013 dismissed the appeal of the petitioner. The present

writ petition is preferred against the judgment dated 7.2.2013 of the Delhi School Tribunal.

2. Really, the present writ petition would be in the nature of an appeal against the order of the Delhi School Tribunal though the petition is filed as a petition under Articles 226 and 227 of the Constitution of India. No doubt, the Limitation Act, 1963 does not apply to filing of a writ petition against the order of the statutory tribunal, however, that does not mean that principles of limitation should be thrown away to the winds as regards a writ petition vide *State of Orissa and Another Vs. Mamta Mohanty (2011) 3 SCC 436*. The maximum period of limitation under the Limitation Act for approaching the High Court from the order of the court below is ninety days. In the present case, the judgment of the Delhi School Tribunal is dated 7.2.2013 and the petitioner did not file the present writ petition in around the period of ninety days but filed the same after over one year on 18.2.2014. The writ petition filed was therefore considerably delayed when filed originally and was thus liable to be dismissed by applying the doctrine of delay and *laches*.

3. After original filing delay there is a further delay of around 546 days in re-filing the petition and which huge delay is simply sought to be explained on behalf of the petitioner by referring to the fact that the earlier

counsel was not vigilant and in fact petitioner did not have money for typing for removing the objections of the Registry.

4. In my opinion, the explanation given by the petitioner for seeking condonation of delay cannot be accepted because if such flimsy and weak reasons are accepted then there is no reason why all reasons given for condonation of delay must be accepted and a person can at his leisure and pleasure, avoid the limitation period when filing petitions in this Court. Also, it is seen that there are no details given in the application seeking condonation of delay as to when the petitioner contacted his earlier counsel, whether any correspondence was entered into, and so on. Also, petitioner simply states that he did not have moneys as he was dismissed from service but surely amounts of typing do not run into thousands of rupees for a person to claim that such amount for typing of writ petitions and removal of objections of the Registry was not available with the petitioner.

5. This writ petition, on taking the total number of days of delay in filing the same, would be roughly about after about two years and four months of the impugned judgment of the Delhi School Tribunal dated 7.2.2013.

6. In view of the facts of the present case, the petitioner being guilty of gross indiscipline, petitioner having being heard and disciplinary

proceedings concluded after both the sides participated resulting in penalty from dismissal of services, petitioner being unsuccessful before the Delhi School Tribunal, and there existing unexplained delay of around two years and four months, therefore, the delay cannot to be condoned and that too once the delay is found to be clear case of want of action amounting to negligence, and hence this application is dismissed.

7. C.M. stands dismissed in view of the above discussion.

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8. Since C.M. Application No. 19510/2015 is dismissed, the present writ petition is also dismissed.

JANUARY 25, 2017

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VALMIKI J. MEHTA, J