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

+ W.P.(C) 7519/2018 and CM APPL. 28722/2018

DHARAMBIR

..... Petitioner

Through: Ms. Sheetal Raghuvanshi, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Ms. Shiva Lakshmi, CGSC with

Mr. Ruchir Ranjan Rai and Mr. Siddharth Singh

with Mr. Sanjay Kumar, Dy. JAG.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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23.07.2018

1. The present petition has been filed by the petitioners praying *inter alia* for quashing an order dated 27.12.2013, passed by the respondent No.3/Commandant, 26th Battalion, ITBP Force, Ludhiana, Punjab whereunder, he has been struck off from the strength of the ITBP after he was found guilty of all the three charges levelled against him, duly considered in a Summary Force Court held on 27.12.2013.

2. At the first instance, we have requested learned counsel for the petitioner to explain the inordinate delay on the part of the petitioner in approaching the Court for relief. Secondly, we have asked learned counsel to state as to whether the petitioner has exhausted the statutory remedies available to him before filing the present petition.

3. Learned counsel for the petitioner concedes that the petitioner did not take any steps within the stipulated period of three months to file an appeal against the order dated 27.12.2013 passed by the Disciplinary Authority. Instead, he states that the petitioner has submitted an appeal/representation dated 26.2.2018 to the respondent No.2/DG, ITBP, against his dismissal order.

4. Quite apparently, the aforesaid appeal/representation submitted by the petitioner after over four years from the date of his dismissal is hopelessly barred by delay and *laches*.

5. Learned counsel for the petitioner seeks to explain that the petitioner was facing a trial in FIR No. 315 dated 10.08.2013 P.S. Sector-11, Chandigarh under Sections 380 and 411 of the IPC and vide judgment dated 19.1.2018, passed by the Judicial Magistrate, 1st Class, Chandigarh, he has been acquitted on the ground that the prosecution failed to prove its case beyond a shadow of reasonable doubt.

6. On enquiring as to whether the allegations levelled against the petitioner in the criminal case are the same as the charges levelled against him by the respondents, learned counsel concedes that the said charges are independent of the offence, subject matter of FIR No.315/2013.

7. That being the position, simply because the petitioner has been acquitted on being given benefit of doubt, cannot be a ground to explain the delay of over four years in filing the present petition. Even otherwise, if the petitioner has a grievance against the order dated 27.12.2013 passed by the respondent No.3, based in Ludhiana, Punjab, then it is for him to approach the Court vested with territorial jurisdiction to entertain the present petition.

8. For the aforesaid reasons, we decline to entertain the present petition, which is dismissed alongwith the pending application.

HIMA KOHLI, J

REKHA PALLI, J

JULY 23, 2018

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