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

+ W.P.(C) 49/2018 & CM No.232/2018

K. Z. KHAN

..... Petitioner

Through: Mr.Jagmohan Sharma, Advocate

versus

NATIONAL PROJECTS CONSTRUCTION  
CORPORATION LTD AND ANR.

..... Respondents

Through: None.

**CORAM:**

**HON'BLE MS. JUSTICE HIMA KOHLI**

**HON'BLE MS. JUSTICE PRATIBHA RANI**

**ORDER**

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**05.01.2018**

1. The petitioner is aggrieved by the order dated 23.02.2017, passed by the Central Administrative Tribunal, declining to condone the delay of 1165 days in assailing an order dated 25.05.2011 whereby, he was declared unfit by the respondent/NPCC Ltd. for promotion and delay of 1769 days in assailing an order dated 12.04.2010 whereunder, adverse entries were made in his Annual Performance Assessment Report (APAR) for the period 01.05.2008 to 31.03.2009.

2. In the impugned order, the Tribunal has observed that the delay on the part of the petitioner in filing the OA is abnormal and except for making bald statements, he has not filed a single document to prove his continuous ailment, nor has he stated anything in his application for seeking condonation of delay for the entire period of five years by indicating as to

whether he had been working or gone on extraordinary leave on health grounds; nor have any medical bills or doctor's prescriptions had been filed by the petitioner. The Tribunal further observed that when the petitioner had found the time to file various cases, before different fora, relating to his service, it was not feasible to accept his submission that he did not do so in the present case since he was suffering and in personal difficulty, particularly when he could serve with the respondent and discharge his daily duties, in routine.

3. Learned counsel for the petitioner submits that the Tribunal failed to appreciate the fact that the petitioner has three mentally ill patients in his family. He explains that the petitioner's mother was diagnosed with a psychological disability, namely, schizophrenia and she suffered from mental retardation till she expired in the year 2013 and his unmarried younger sister who resides with him, suffers from permanent bi-mental retardation. As for the petitioner's wife, it is stated that she had bouts of severe depression and had developed suicidal tendencies due to which she remained on medication and therefore, the petitioner was busy attending to his family members in all this duration.

4. Though not a single document was filed by the petitioner before the Tribunal to substantiate the aforesaid submission, learned counsel submits that he has filed an application seeking permission to place on record several additional documents including some documents relating to his treatment and that of his family members.

5. We may note that the documents pertaining to petitioner's mother, are upto the year 2013, as she had expired in the said year and therefore, they will not be of any assistance to explain the delay from the year 2013

onwards till the year 2016, when he had finally approached the Tribunal for relief. Even the documents pertaining to the petitioner's sister and wife pertain to the years 2012 & 2013 and nothing has been placed on record thereafter, to establish their medical condition. Same is the position in respect of the petitioner's own medical documents.

6. We have enquired from the learned counsel for the petitioner if apart from the present litigation that the petitioner had sought to initiate against the respondent/NPCC Ltd., whether any other litigations were filed/are pending between him and his employer. Learned counsel responds by stating that there were five other cases between the petitioner and the respondent/NPCC Ltd. Four cases were filed by the petitioner against the respondent/NPCC and one contempt petition has been filed by the respondent/NPCC against the petitioner.

7. That being the position, we are quite sceptical about the plea taken by the counsel for the petitioner that his client was so busy attending to his family affairs that he could not file the OA before the Tribunal till the year 2016. Admittedly, the petitioner has been regularly pursuing the other petitions filed by him against the respondent/NPCC Ltd. and defending the contempt petition filed by the respondent/NPCC Ltd. against him. For him to state that he did not have the finances to bear the legal expenses to file the OA before the Tribunal till the year 2016, to assail the orders passed as long back as on 12.04.2010 and 25.05.2011, is absolutely unbelievable. Nor does the plea of the penurious condition of the petitioner hold any water.

8. For the reasons noted hereinabove, we find no merit in the pleas taken by the learned counsel for the petitioner to assail the order dated 23.02.2017

passed by the Tribunal, rejecting the application of the petitioner for seeking condonation of delay and as a consequence thereof, dismissing the OA filed by him.

9. The petition is accordingly dismissed *in limine*, along with the pending applications.

**HIMA KOHLI, J.**

**PRATIBHA RANI, J.**

**JANUARY 05, 2018**  
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