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

+ W.P.(C) 14/2018 & CM No.79/18

SHRI VIKAS KUMAR Petitioner

Through: Mr.Sachin Chauhan, Advocate

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr.Arun Bhardwaj, CGSC for UOI
Mr.Santosh Kr.Tripathi, ASC with
Mr.Rizwan, Advocate for R-2 to R-4

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **03.01.2018**

1. The present petition has been filed by the petitioner, assailing the judgment dated 1.11.2017 passed by the Central Administrative Tribunal, dismissing his OA No.2711/2014 interalia praying for setting aside the orders dated 23.04.97, 20.08.97, 05.05.03, 01.02.10, 12.10.13 and directing the respondent/Delhi Police to reinstate him in service with all consequential benefits.

2. Briefly stated, the facts of the case are that the petitioner was appointed as a Constable in Delhi Police on 15.7.96 and was placed on probation for a period of two years. However, vide order dated 23.4.97 the petitioner was dismissed from service on the ground that he had concealed the fact that he was involved in case FIR No.122/94 PS Ramala, District Meerut, U.P.

3. Aggrieved by the order dated 23.4.97, the petitioner had filed OA No.2437/97 before the Central Administrative Tribunal which was dismissed by a detailed order dated 30.10.2000. It is not a disputed position that the petitioner did not challenge the aforesaid order by filing any petition in the High Court. Instead, after waiting for a decade and a half, the petitioner once again approached the Tribunal by filing OA No.2711/14, yet again assailing the very same order dated 23.4.97 passed by the respondents dismissing him from service and additionally, laying a challenge to the orders dated 20.08.97, 05.05.03, 01.02.10 and 12.10.13, whereby his repeated representations for reconsidering his case were rejected.

4. By the impugned order, the Tribunal has dismissed OA No.2711/14 filed by the petitioner on the ground that the same is barred by resjudicata as he had already suffered a judicial order dated 30.10.2000, wherein the relief for setting aside his termination order was rejected.

5. Further, the plea taken by the petitioner before the Tribunal to the effect that his case is on a better footing than one Sh.Jeetu Shesharao, a Constable appointed with Delhi Police whose services had been terminated and in whose case, the then Lieutenant Governor, GNCT of Delhi has vide order dated 04.09.02 had rejected his appeal for withdrawal of the order of removal and observed that he was involved in a case of murder, which was graver than the involvement of the petitioner herein in the case of hurt.

6. It is noteworthy that vide order dated 04.09.2002, the Lieutenant Governor, GNCT of Delhi had not only dealt with the case of Sh.Jeetu Shesharao but also of the petitioner herein and had passed a common order whereby the representation of both the ex-constables were rejected. That

being the position, even if it is assumed that the petitioner, for one reason or the other, did not challenge the order dated 30.10.2000 passed by the Tribunal in OA No.2437/97, it shall have to be assumed that he had got another opportunity to seek legal recourse against the order of the Lieutenant Governor, GNCT of Delhi, passed subsequently. However, the petitioner did not seek any legal recourse against the said order and sat back till as late as in the year 2014.

7. The only explanation offered by the learned counsel for the petitioner for the inordinate delay in approaching the Tribunal for relief was that he was awaiting the fate of Jeetu Shesharao's case, whose services were finally terminated by Delhi Police only in the year 2013.

8. We are not impressed with the aforesaid submissions and find them completely devoid of merits. The petitioner's cause of action is an independent one and in no way connected with the fate of Jeetu Shesharao's case and therefore, he had no reason to await the action that the respondents may take in respect of the aforesaid ex-constable. Given the fact that the petitioner had approached the Tribunal after suffering an adverse order with respect to his dismissal as long back as in the year 2000 and elected not to challenge it, we are in agreement with the observation made by the Tribunal in the impugned order that OA No. 2711/2014 filed by him is not maintainable due to the bar of resjudicata.

9. Accordingly, the present petition is dismissed *in limine*, as devoid of merits, along with the pending application.

HIMA KOHLI, J.

PRATIBHA RANI, J.

JANUARY 03, 2018/ 'pg'