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

+ **W.P.(C) 12177/2019**

DEEPAK

..... Petitioner

Through: Mr. Rajiv Ranjan Prasad, Mr. Praveen
Alok and Mr. Diwakar Chatterjee,
Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondent

Through: Mr. Om Prakash, GP with Ms.
Akansha Jain, Mr. Rajesh Kumar and
Ms. Santwana, Advocates.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
% 19.11.2019

1. By way of the present writ petition, the Petitioner has prayed for issuance of a writ of mandamus for directing Respondent No.2 to decide the representation of the Petitioner and to further issue a writ in the nature of mandamus directing the Respondent authorities to allow the Petitioner to resume his service or reinstate him in his service as Constable (GD).
2. In brief, the case of the Petitioner is that he joined the Sashastra Seema Bal (SSB) in the year 2006 as Constable (GD) and he was posted in 15th Battalion SSB. He had completed a special course in 'explosive detection

and dock training.’

3. The Petitioner applied for leave in the year 2012 and was allowed to proceed on 30 days Earned Leave and 15 days paternity leave with effect from 30th April, 2012 to 13th June, 2012. The leave certificate has been annexed as Annexure ‘A4’ to the petition. The said certificate shows that the Petitioner was allowed to prefix the holiday falling on 29th April, 2012 and he was directed to resume his duty without fail on 13th June, 2012. As per the Petitioner, when he reached home, he had matrimonial disputes with his wife who left his home and the Petitioner was to take care of the new-born baby. The Petitioner went into a state of mental shock and was taken for treatment in the hospital near to his home. The Petitioner had orally requested the Respondent authorities to extend his leave as he was not in proper mental shape and thereafter, he went into deep mental trauma. The Petitioner lost his father in 2013.

4. The mother of the Petitioner had a massive heart attack in 2013 and she had to undergo a bypass surgery and stents were implanted. In 2018, again, mother of the Petitioner suffered a heart attack and two new stents were implanted. The Petitioner claims that now he is in good and healthy state of mind and body and is physically and mentally fit and willing to serve his country and resume his duties as Constable (GD).

5. The Petitioner made a representation to Respondents, which is Annexure ‘A7’ dated 4th May, 2019. As per him, he never received any notice or summons regarding his termination orders and since his representation has

not been decided till date, so he has approached this Court by filing writ petition on the grounds that the Respondents have acted illegally; the Petitioner is mentally and physically fit, so, he should be allowed to resume his services and that the Respondents have acted against the provisions of law by not allowing him to resume his services.

6. Learned counsel for the Respondent is present on advance notice. We have heard the learned counsel for the Petitioner as well as learned counsel for the Respondents. The Petitioner has failed to satisfy this Court as to why he did not report for duty on 13th June, 2012 or immediately thereafter. The contention of the Petitioner that due to his family circumstances, he could not do so is not a sufficient ground for not even sending an application for extension of leave or for seeking further leave from his unit head. In para 6 of the petition, it is mentioned that the Petitioner orally requested the authorities to extend his leave and he was not in proper mental shape. Learned counsel for the Petitioner was specifically asked as to how he had made that request. The answer is that he had telephonically requested for extension of his leave. No document whatsoever has been filed on record in support of the contention for extension of leave. Neither the name of the person to whom the telephone call was made, nor the telephone number on which the said call was made has been disclosed by the Petitioner. It appears that it is only an afterthought that he orally requested for extension of leave.

7. The so-called representation has been sent on 4th May, 2019, i.e. after expiry of more than seven years from the date of expiry of the sanctioned leave of 13th June, 2012. It is a clear-cut case of abandonment of service by

the Petitioner. There is no reasonable or sufficient explanation for not joining duties immediately on expiry of sanctioned leave or approaching the Respondents by the Petitioner in the last more than seven and a half years.

8. The petition is liable to be dismissed for delay and laches and it is accordingly dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

NOVEMBER 19, 2019

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