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

+ **W.P.(C) 632/2020**

RAS BIHARI CHAKRABORTY

..... Petitioner

Through: Ms. Shruti Munjal, Adv.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr. Niraj Kumar, Sr. Central Govt.
Counsel for R-1.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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05.02.2020

The present petition is directed against order dated 01.11.2019 passed by the Central Administrative Tribunal ('Tribunal') by which an O.A. filed by the petitioner has been rejected on the ground of delay.

2. Notice to show cause as to why this petition be not admitted.
3. Learned counsel for the respondents accept notice.
4. In this case, the petitioner was working as an Assistant in the Central Council for Research in Ayurvedic Sciences until the year 2013. On account of the serious charge of embezzlement of Rs. 56,10,000/-, a charge memo was issued to him on 21.06.2012. The petitioner denied the charge leveled against him. An Inquiry Officer was appointed and submitted a report on 07.05.2013 after conclusion of the disciplinary proceedings. A copy of the report dated 07.05.2013 alongwith a covering

letter was made available to the petitioner on 18.06.2013. The petitioner submitted an explanation to the report. However by final order dated 06.11.2013, the President directed forfeiture of the entire pension and gratuity of petitioner permanently. An OA was filed in the year 2019, i.e. after a period of 6 years from the date of order of penalty ; and the same has been dismissed on account of inordinate delay.

5. Learned counsel for the petitioner submits that at the time when the report of the Inquiry Officer was submitted, the petitioner was in judicial custody (since 20.03.2013) and he was granted bail only in the year 2016. She further submits that the wife of the petitioner committed suicide on 02.11.2013, leaving behind a son who was minor at the relevant time. Learned counsel has strongly urged before this court that the criminal proceedings have not yet attained finality ; and thus the gratuity and pension cannot be forfeited, especially when the petitioner has put in service of more than 30 years. She submits that the petitioner has a strong case on merits ; and has undergone extreme hardship, whereby he was in judicial custody for more than 3 years before bail was granted, during which time his wife committed suicide leaving him shattered ; and further, that he has had to bring-up his minor son all by himself. In view of the aforesaid circumstances, it is submitted that the delay in filing the OA stands satisfactorily explained.

6. Learned counsel for the respondent submits that even while the petitioner was in custody, he had made a representation to the department; and accordingly the petitioner could also have approached the Tribunal

within time.

7. We have heard learned counsel for the parties and have considered their submissions.

8. In our view, the delay in approaching the Tribunal has been reasonably explained for the following reasons:

(a) The petitioner remained in custody for more than three years from 20.03.2013 up-to the year 2016 ;

(b) His wife committed suicide during the time he was in custody ;
and

(c) He had to bring-up his minor son in extremely trying circumstances.

9. Accordingly, we condone the delay in filing the OA and set-aside the impugned order; and remand the matter back to the Tribunal for hearing the same on merits.

10. Needless to say that we have not expressed any opinion on the merits of the matter.

11. Parties are directed to appear before the Tribunal on 13.03.2020.

12. The present petition is disposed of in the above terms.

G.S.SISTANI, J.

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 05, 2020/uj