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

+ W.P.(C) 2515/2020

DILBAGH SINGH

..... Petitioner

Through: Mr. Sudhir Sharma, Adv. with
petitioner in-person.

versus

DELHI TRANSPORT CORPORATION & ANR. Respondents

Through: Mrs. Avnish Ahlawat, Standing
Counsel for DTC with Mr. Nitesh Kr.
Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **04.03.2020**

CM APPL. No. 8816/2020 (exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 2515/2020

The present petition is directed against order dated 26.11.2010 passed by the Central Administrative Tribunal.

2. Mrs. Ahlawat enters appearance on advance copy.

3. She has raised a preliminary objection with regard to maintainability of this writ petition on the ground of delay and laches. The impugned order dates as far back on 26.11.2010. Mrs. Ahlawat submits that there is no

plausible explanation for such delay.

4. Learned counsel for the petitioner has drawn the attention of the court to paras 13 and 14 of the writ petition in support of his contention that there are plausible reasons for not approaching this court within a reasonable period of time.

5. We have heard learned counsel for the parties.

6. We deem it appropriate to reproduce paras 13 and 14 which has been relied upon by learned counsel for the petitioner :-

"13 .That during the pendency of proceedings before Hon'ble Delhi High Court, the DTC (Employer/Management) removed him from service vide order dated 17.04.98 by holding ex-parte enquiry proceedings and the Applicant/Workman preferred not to appear on the advice of his Counsel. Later on the Central Administrative Tribunal, on 21.11.2010, also upheld his removal and enquiry proceedings without delving into the real implication and purport of the relied upon judgments. The Counsel for the Applicant/Workman had also charged him hefty amount for filing appeal against the order of CAT and continued to put him off about the proceedings before high court, which he did not even file.

"14. That after taking steps in his capacity, power and as per his judiciousness & prudence, workman on 20.09.2019 made a complaint against his counsel to Chairman-BCD and forwarded the copy of the same to Law Minister, Chairman BCI, LG & Commissioner of police. The true copy of the same is annexed herewith as ANNEXURE—P-17

The Hon'ble Supreme Court in a landmark case of Rafiq & Another Vs. Munshilal & Anr. decided by Hon'ble Judges Sh DA Desai & Sh Baharul Islam, unequivocally and categorically held that Party should not suffer for misdemeanour or inaction of his Counsel. The delay in the present case is attributable to the inaction on the part of his counsel for not taking effective steps even after fiscal charging the workman and continued to fleece money by representing to his client the pendency of the proceedings in writ petition. The Workman has also filed complaint against the erring counsel and also annexed the acknowledgement of the complaints by BCD in an application filed before Delhi High Court Legal Services Committee. It seems to be a case of indolent and slothful behaviour of the Counsel who after charging prohibitively hefty professional fee did not take pains even to file a case for his client and continued to put him off on the pretext of pendency. The cause of delay in filing the present writ is attributable to the misrepresentation of his counsel and the he could file the present writ only after coming to know about the real situation."

7. In the case of ***P.K. Ramachandra vs. State of Kerala and Anr.*** reported as (1997) 7 SCC 556, the Apex Court has held that the court must be satisfied at the first instance while condoning delay, the relevant para of which we reproduce below :

"6. Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the courts have no power to extend the period of limitation on equitable grounds. The discretion exercised by the High Court was, thus, neither proper nor judicious. The order condoning the delay cannot be sustained. This appeal, therefore, succeeds and the

impugned order is set aside. Consequently, the application for condonation of delay filed in the High Court would stand rejected and the miscellaneous first appeal shall stand dismissed as barred by time. No costs."

(Emphasis supplied)

8. The only explanation for the delay in the present case is that the counsel appearing in the matter had misled the petitioner. The petitioner however gives no specifics as to what steps he took to check on the progress of his matter, except to lament the inaction on the part of his lawyer.

9. The petitioner's explanation does not commend itself for acceptance. We are of the view that the petitioner has not offered any credible reason for the serious delay and laches in filing the present writ petition, which have not been satisfactorily explained.

10. The law on the point is well-settled in ***P.K. Ramachandra*** (supra), applying which we find no merit in the submission made by counsel for the petitioner.

11. Accordingly we dismiss the present petition.

G.S.SISTANI, J.

ANUP JAIRAM BHAMBHANI, J.

MARCH 04, 2020/uj