

08.12.2021
Item No. 04
Crt.No.11
b.r.

MAT 606 of 2018
with
IA No. CAN 1 of 2020 (Old No. CAN 2439 of 2020)

Khokan Acharjee @ Khokan Acharya
-vs-
Union of India & Ors.

(Via video conference)

Mr. Moyukh Mukherjee
Mr. Kaustov Lal Mukherjee
Ms. Sohini Halder
..... for the appellant.

Mr. Shyamal Kumar Mukherjee
..... for the Respondents.

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

The facts in this appeal are admitted.

The appellant was the writ petitioner.

The appellant arrived before the Hon'ble Single Bench seeking the relief of reinstatement pursuant to an order of dismissal for unauthorised absence in a Disciplinary Proceeding (*DP*). The appellant/the writ petitioner was a constable with the Border Security Force (*BSF*).

Admittedly again, the *DP* was initiated by issuing a show-cause notice on 2nd of February, 1992. The appellant did not reply to the show-cause notice and, after 17 years i.e., in the year 2009, filed a representation before his Disciplinary Authority (*DA*) seeking reinstatement and setting aside of the order of dismissal.

Although the appellant claims to have filed representations from 2009 onwards, the appellant filed the instant writ petition was filed by the appellant a good 9 years thereafter in 2018.

The Hon'ble Single Bench took note of the inordinate delay on the part of the appellant/the writ petitioner to seek his remedies.

Mr. Mukherjee, learned Counsel appearing for the appellant, submits that the father of the appellant suffered three medical issues in the interregnum preventing the appellant from approaching the authority.

However, Mr. Shyamal Mukherjee, learned Counsel for the respondents/*BSF* submits that there is no iota of evidence presented on behalf of the appellant to show that he availed the opportunity to rejoin service by replying to the show-cause. It is submitted that large swathes of time have intervened between the show-cause served in 1992 to the purported representations of the appellant in 2009 and, finally with the presentation of the writ petition in 2018.

Having heard the parties and considering the materials placed, this Court finds no reason whatsoever to enter into the merits of an appeal based on a writ petition filed after 26 years post the issue of the show-cause notice.

The very fact that the appellant has embarked on this adventurous judicial process purportedly based on legal advice, surprises this Court.

MAT 606 of 2018 with **CAN 1 of 2020 (Old No. CAN 2439 of 2020)** therefore is not detained further and stand **dismissed**.

Having regard to the facts as discussed above, the dismissal shall carry costs assessed at Rs.10,000 (Rupees Ten Thousand) only payable by the appellant to the West Bengal State Legal Services Authority. Such costs shall be paid within two weeks from this date.

In the event the costs are not paid within the time stipulated above, such costs shall be realised under the Bengal Public Demand Recovery Act.

Let a notice of this order be communicated by the **Registry** to the District Magistrate (*DM*), 24- Parganas (North) to take steps. The *DM*, 24-Parganas (North) shall file a Report of Compliance with the learned Registrar General which, be kept with the record.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

All parties shall act in terms of the copy of the order downloaded from the official website of this Court.

(Krishna Rao, J.)

(Subrata Talukdar, J.)