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

+ **W.P.(C) 2423/2020**

EX CT MAYA SHANKAR SINGH Petitioner
Through: Mr. Ajit Kakkar, Advocate.

versus

UNION OF INDIA AND ORS. Respondents
Through: Mr. Jitesh Vikram Srivastava, Advocate
with Mr. Prajesh Vikram Srivastava,
Advocate.
Mr. Hemendra Singh, Dy. Comdt., Law
Officer, BSF.

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Date of Decision: 17th December, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVING CHAWLA

J U D G M E N T

MANMOHAN, J (Oral):

1. Present writ petition has been filed challenging the order of removal dated 27th April, 2001 and 22nd April, 2019 issued by the respondents or in the alternative convert the punishment of his dismissal into discharge. Petitioner also seeks direction to the respondents to award lesser punishment to the petitioner and award compassionate allowance as per the service rendered by him in BSF.
2. Since the petitioner had been removed from service on 27th April, 2001, this Court is of the view that the present writ petition is barred by delay and laches.

3. At this stage, learned counsel for petitioner states that the petitioner had approached Guwahati High Court in the year 2010 challenging the order of the dismissal. He states that the present petition has been filed for a different prayer namely, seeking conversion of dismissal into discharge.
4. This Court is of the view that the petitioner cannot approach different High Courts just because he seeks a different relief. In essence the cause of action is the same.
5. Moreover the said cause of action had arisen in the year 2001.
6. The Supreme Court in the case of ***Chairman/Managing Director, U.P. Power Corporation Ltd. & Ors. vs. Ram Gopal, 2020 SCC OnLine SC 101***, has held that delay defeats equity and law favours the vigilant and not the indolent. The relevant portion of the said judgment is reproduced hereinbelow:-

“16. Whilst it is true that limitation does not strictly apply to proceedings under Articles 32 or 226 of the Constitution of India, nevertheless, such rights cannot be enforced after an unreasonable lapse of time. Consideration of unexplained delays and inordinate laches would always be relevant in writ actions, and writ courts naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester. Fence sitters cannot be allowed to barge into courts and cry for their rights at their convenience, and vigilant citizens ought not to be treated alike with mere opportunists. On multiple occasions, it has been restated that there are implicit limitations of time within which writ remedies can be enforced. In SS Balu v. State of Kerala, this Court observed thus:

“17. It is also well-settled principle of law that “delay defeats equity”. ...It is now a trite law that where the writ petitioner approaches the High Court after a long delay,

reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment.” (emphasis supplied)

17. Similarly, in *Vijay Kumar Kaul v. Union of India* this Court while considering the claim of candidates who, despite being higher in merit, exercised their right to parity much after those who were though lower in merit but were diligently agitating their rights, this Court observed that:

“27. ...It becomes an obligation to take into consideration the balance of justice or injustice in entertaining the petition or declining it on the ground of delay and laches. It is a matter of great significance that at one point of time equity that existed in favour of one melts into total insignificance and paves the path of extinction with the passage of time.”

7. Accordingly, the present writ petition, is dismissed on the ground of delay and laches.

MANMOHAN, J

NAVIN CHAWLA, J

DECEMBER 17, 2021

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