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

+ **W.P.(C) 13759/2021**

DHARAM SINGH BHAWALAL KAKARWAL Petitioner

Through **Mr.Saroj Kumar Singh, Advocate.**

versus

UNION OF INDIA & ORS. Respondents

Through **Ms.Manisha Agrawal Narain,
Advocate.**

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Date of Decision: 06th December, 2021.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

MANMOHAN, J: (Oral)

C.M.No.43448/2021

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) No.13759/2021

1. Present writ petition has been filed challenging the order dated 24th November 2007 passed by the Commandant, CISF dismissing the Petitioner from service. Petitioner also seeks directions to the Respondents to reinstate the Petitioner in the service and release the arrears of pay and allowances to which the petitioner is entitled.

2. Learned counsel for the Petitioner states that an argument between the petitioner and Constable V.K. Naidu resulted in an enquiry against the petitioner wherein the petitioner was directed to appear in the Orderly room

on 20th June 2007. He further states in the Orderly room several false allegations were levelled against the Petitioner and he was forcefully administered liquor by Constable V.K. Naidu, S.K. Meena and CHM Ashok Kumar after which his medical tests were conducted.

3. Learned counsel for the Petitioner states that the Petitioner was dismissed from service on the ground of four charges vide an order dated 24th November 2007. He states that the aforesaid order is a biased order. The petitioner has been intentionally implicated in a false case and he never quarreled with Constable V.K. Naidu.

4. Learned counsel for the Petitioner states that the appeal preferred by the Petitioner before DIG was dismissed vide order dated 6th February 2008 and the subsequent revision petition was also dismissed vide order dated 26th May 2008.

5. He further states that Petitioner approached the High Court of Bombay at Aurangabad wherein the Respondents were directed to release the documents pertaining to the Petitioner vide order dated 21st February 2017. However, he contends that the Petitioner was provided with an incomplete set of documents by the Respondent in April 2017.

6. Learned counsel for the Respondents, who appears on an advance notice, states that the present writ petition is not maintainable on the ground of laches as well as territorial jurisdiction. She states that the impugned orders have been passed in Mumbai.

7. Having heard learned counsel for the parties, this Court is of the view that if the petitioner was aggrieved by the dismissal order dated 24th November, 2007 and/or dismissal of appeal on 6th February, 2008 and/or dismissal of Review Petition on 26th May, 2008 and/or non release of

documents in April, 2017, he should have approached the High Court in 2017 itself.

8. 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. Fencesitters 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.”

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.”

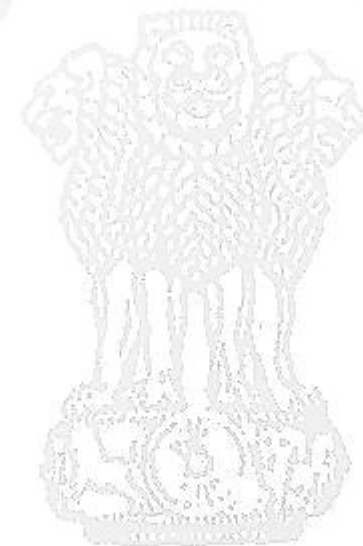
9. It has also been repeatedly held by the Supreme Court that repeated representations by the petitioner would not extend the time period to file the writ petition.

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

MANMOHAN, J

NAVIN CHAWLA, J

**DECEMBER 06, 2021
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