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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.03.2022

CORAM

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.NO.23235 OF 2013

J.Anandan

..Petitioner

Vs.

1. The Union of India,
Rep.by its Secretary to Government,
Ministry of Home Affairs,
New Delhi.
2. The Director General,
Central Reserve Police Force,
Lodhi Road,
CGO Complex,
New Delhi - 110 003.
3. The Deputy Inspector General of Police,
Central Reserve Police Force,
Group Centre, Avadi,
Chennai - 600 065.
4. The Commandant,
42 Battalion, Narsingarh,
Agarthala,
Presently at District Police Training Centre,
Lala Theruvu, Rajamundry,
East Godavari District,
Andhrapradesh - 533 106.

..Respondents

Prayer:

Writ Petition filed Under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 4th respondent dated 04.07.2003 in his order No.IX.4/02-42.EC.2 (J/A) and quash the same and to direct the respondents to take the petitioner into the strength of CRPF as Constable Driver with all monetary benefits.



For Petitioner :Mr.A.S.Mujibur Rahman

For Respondents:Mr.M.Aravind Kumar

Senior Central Government Panel Counsel

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ORDER

The petitioner herein, while serving as a Constable Driver in the CRPF, was granted casual leave from 24.05.2002 to 16.06.2002. With effect from 16.06.2002, he absented himself from duty without permission, which resulted in framing of the charges, dated 13.10.2002. In the enquiry conducted, the petitioner had neither replied to the charge-memo nor participated in the enquiry, which resulted in the passing of the impugned dismissal order, dated 04.07.2003.

2. The learned counsel for the petitioner submitted that initially owing to the death of his son, he was unable to attend duty after 16.06.2002 and he had also requested for resignation on various dates in the month of November 2002. However, the 4th respondent without issuing the enquiry notice, had continued with the enquiry and had passed the dismissal order. Even this dismissal order was not served on the petitioner. Thus, the learned counsel for the petitioner submitted that he may be given opportunity for participating in the enquiry.

3. The learned Standing Counsel for the respondents submitted that both the enquiry notice as well as the dismissal order was received by the petitioner and in spite of the same, he had not turned up for the enquiry. According to him, the impugned dismissal order was received by his wife on 08.08.2003 and acknowledgement was produced before this Court. The copy of the Enquiry Officer's Report, dated 08.05.2003, as well as the final show-cause notice dated 29.05.2003, was also sent to the petitioner. In response to the show-cause notice, the petitioner submitted an application dated 17.06.2003 and, therefore, the petitioner was fully aware of the enquiry as well as the consequent punishment. It is also his submission that though the order was passed in the year 2003, petitioner had preferred the present writ petition after a period of 10 years and hence, the Writ Petition is liable to be dismissed, on the ground of laches.

4. The petitioner claims that though he had absented himself from 16.06.2002, he has made a request for resignation, in the month of November 2002. There is no explanation as to why the petitioner had not sought for permission for extension of leave from 16.06.2002 onwards. Likewise, there is no explanation for the five months of delay in sending representation, seeking for



resignation. Though the petitioner claims that he was not aware of the dismissal order that he had received in the year 2013, his representation dated 17.06.2003, reveals that he was aware of the dismissal order. The order which was received by his wife can be deemed that he had knowledge of the dismissal order.

5. This apart, the present Writ Petition has been filed after 10 years from the date of the dismissal order, which delay is inordinate in nature, since there is absolutely no explanation for the laches, apart from stray statement, that he had received the dismissal order only in the year 2013. When his representation reveals that he was aware of the dismissal order, there was no justification for the petitioner to have waited for 10 years, to file the Writ Petition. Even assuming the petitioner's statement that he had received the dismissal order only in the year 2013, he has not explained the reason for the delay of 10 years period, particularly when he had acknowledged the fact that the dismissal order has been passed by the respondent, in his representation.

6. For all these reasons, this Court is of the view that the delay in preferring the present Writ Petition is fatal and the unauthorised absence on the part of the petitioner till the enquiry, substantiates the case against him. Thus, I do not find any merit in the present case and accordingly, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Pns

To

1. The Secretary to Government,
Union of India,
Ministry of Home Affairs,
New Delhi.
2. The Director General,
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3. The Deputy Inspector General of Police,
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Lala Theruvu, Rajamundry,
East Godavari District,
Andhrapradesh - 533 106.

+2ccs to Mr.M.Aravind Kumar, Advocate, S.R.No.14560

+1cc to Mr.A.S.Mujibur Rahman, Advocate, S.R.No.14704

W.P.No.23235 of 2013

SR(CO)
PM/16/03/2022