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

% ***Date of decision: October 06, 2022***

+ **W.P.(C) 14202/2022**

JAYANTA SAKHARAM KENI Petitioner

Through: **Mr. Vinod Kumar, Advocate**

Versus

UNION OF INDIA AND ORS. Respondents

Through: **Mr. Chetan Sharma, Senior Panel
Counsel for respondents No.1 & 2
Mr. Rahul Kumar Sharma,
Government Pleader**

CORAM:

**HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MR. JUSTICE SAURABH BANERJEE**

J U D G M E N T (oral)

1. The present petition has been filed by the petitioner for quashing / setting aside of order dated 24.05.2010 passed by the respondents, vide which he has been awarded major penalty of 'removal from service' on the basis of ex-parte and botched up enquiry report, without affording him an opportunity of fair hearing. Additionally, petitioner is also seeking a writ of mandamus to the respondents to reinstate him in service.

2. Pertinently, the petitioner has averred that he had joined services of Central Industrial Security Force (CISF) as Constable/GD on 18.03.2006. He claims to have been sanctioned earned leave for 25 days from 26.08.2009 till 23.09.2009 and thereby, had to join duty on 24.09.2009.



However, due to jaundice and hepatitis of advance stage, he remained under treatment from 19.09.2009 till 07.05.2010. Petitioner claims to have received call letters dated 25.09.2009; 05.10.2009; 20.10.2009; 04.11.2009 and 27.11.2009, however, he was seriously ill during the said period and the respondent in *mala fide* manner, recorded petitioner's Overstaying Leave in his service book on 24.09.2009 itself. Subsequently, charges were framed against the petitioner and pursuant to an enquiry, penalty of 'removal from service' was imposed upon him. Being aggrieved petitioner preferred an appeal before the Appellate Authority i.e. Deputy Inspector General (DIG), CISF, which was dismissed 'being devoid of merit' on 30.08.2010. Thereafter, petitioner preferred a revision petition before the Revisional Authority, which also stood dismissed on 29.08.2013.

3. The petitioner has averred that on 12.08.2021, he had submitted online application on the portal of the department for considering his plea for reinstatement in service, which also stood rejected by the competent authority in the year 2021 itself being time barred. The petitioner has also claimed to have made a representation to the Hon'ble Union Minister on 18.01.2022, which is still pending consideration.

4. Relevantly, the petitioner has filed the present petition in August, 2022 against the order dated 24.05.2010 passed by the respondents whereby he has been awarded major penalty of 'removal from service'. The appeal and revision petitions preferred by the petitioner against the impugned order dated 24.05.2010 also stood dismissed in the years 2010 and 2013 respectively. No explanation is forthcoming as to what had stopped petitioner to approach this Court from the year 2013 till 2021. Though the petitioner claims to have made a request on the portal of respondent, but the



provisions of law do not permit so. Even during the course of hearing, learned counsel appearing on behalf of the petitioner has not been able to persuade this Court on this aspect. There is no doubt that this Court has inherent powers to condone the delay, but it has already been held in a catena of decisions that it depends upon the conduct of the petitioner and the explanation of each day's delay has to be given.

5. In view of inordinate delay of a decade in filing the present petition, it is dismissed on the ground of delay and laches alone.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

OCTOBER 06, 2022

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