

18.08.2023
sayandeep
Sl. No. 21
Ct. No. 12

MAT 286 of 2019

With
CAN 1 of 2019 (Old CAN 2229 of 2019)
CAN 2 of 2019 (Old CAN 3276 of 2019)

Madhusudan Ghosh
-Versus-
Union of India & Ors.

Mr. Chinmoy Pal
Ms. Archana Dutta

Mr. Anirban Mitra

.....for the appellant.

.....for the UOI.

The appellant was serving as head Constable in CISF. A charge memo was issued to him alleging certain misconduct committed by him. A domestic enquiry was conducted. Enquiry officer filed a report holding that charges leveled against the appellant were proved. The respondent No. 4, the disciplinary authority accepting the report of the enquiry officer by order dated 06.12.2013 dismissed the appellant from service. The appeal filed by the appellant was dismissed by the order dated 19.03.2014. The appellant filed writ petition, i.e., WP 18212 (W) of 2014 challenging the orders of respondent nos. 4 and 5. Before this Court, in WP 18212 (W) of 2014, the respondent took a stand that appellant not availed the statutory remedy of revision. At time of hearing, the

counsel for the appellant submitted that if order of dismissal is modified as compulsory retirement with benefits, the appellant will not challenge the orders of respondent Nos. 4 and 5. This Court by the order dated 18.02.2015 considering the contention of the learned counsel appearing for the appellant gave liberty to the appellant to file a revision before the end of April, 2015 or within a reasonable time and adjourned the writ petition.

When the said writ petition was taken up for hearing on 08.06.2015, the learned counsel appearing for the appellant submitted that appellant had filed revision only on that date. The learned Judge by the order dated 08.06.2015 withdrew the liberty given to the appellant on 18.02.2015 to file revision and dismissed the writ petition on the ground of laches on the part of the appellant. Subsequently, the respondent no. 6 by the order dated 17.08.2015 rejected the revision on the ground of delay.

The appellant filed the present writ petition challenging the orders of respondent Nos. 4,5 and 6, the disciplinary authority, appellate authority and revisional authority respectively. At the time of hearing, it was pointed out by the counsel appearing for the respondents that earlier writ petition No. 18212 of 2015 filed by the appellant challenging the order of dismissal of disciplinary authority and the appellate authority was

dismissed and the writ petition filed by the appellant challenging the very same orders is not maintainable. The learned counsel appearing for the appellant contended that the appellant is restricting the claim of challenge only to the revisional order. The learned Judge considering the order of the respondent no. 6 dismissed the writ petition holding that the revision has to be filed within six months and the revisional authority has no power to condone the delay after earlier writ petition was dismissed holding that appellant committed laches in availing the liberty granted to the appellant. The Appellant failed to avail opportunity given by this Court to file revision within time granted by this Court and there is no interference by the orders of the respondent No. 6.

The main contention of the learned counsel appearing for the appellant in this appeal is that appellant was suffering from failure of both kidney and was bed ridden and he could not file revision within the time limit granted by this Court. Apart from this, the learned counsel appearing for the appellant also made submissions on merits.

We have considered the materials on record and submissions of the counsel appearing for the appellant and respondents.

From the materials on record, it is seen that the appellant earlier filed W.P. No. 18212 of 2015

challenging the order of disciplinary authority and appellate authority. The said writ petition was dismissed by this Court. The appellant did not challenge the said order of dismissal of writ petition. This Court in view of the statutory remedy of revision gave liberty to the appellant to file revision with regard to his contention to modify the punishment of dismissal to the compulsory retirement. The appellant did not file any revision within time granted by this Court or within a reasonable time. The appellant did not challenge the order passed in the W.P. No. 18212 of 2015. In view of such failure, this Court dismissed the writ petition being W.P. No. 18212 of 2015 on 08.06.2015. the appellant did not challenge the said order of dismissal. The revisional authority dismissed the revision filed by appellant on 17.08.2015 on the ground of delay and laches.

As per Section 9(2A) of the Central Industrial Security Force Act, the appellant has right to file revision challenging the order of the disciplinary authority and appellate authority within 6 months from the date of order of the appellate authority. It is not in dispute that revisional authority has no power to condone the delay if revision is filed beyond 6 months. From the materials referred to above, it is seen that the appellant did not avail the opportunity to file revision within the time granted by this Court and appellant was

not vigilant enough to take steps to his grievance redressed at the earliest. The reason given by the appellant for not filing revision within the time stipulated in the statute as well as within the time granted by this Court is not valid ground and is without merits when the revisional authority has no power to condone the delay.

For the above reasons, appeal fails and dismissed.

There shall be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(V.M. Velumani, J.)

(Rai Chattopadhyay, J.)