

20.09.2023
DL-30
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 20978 of 2023

Pramod Kumar
Vs.
Union of India & Ors.

Mr. Ziaul Islam

....for the petitioner.

Mr. Ranjan Sinha

....for the respondents.

The petitioner has been dismissed from service by an order dated March 16, 2012. Such dismissal was due to his unauthorised leave with effect from October 2, 2011. An opportunity to show cause was given by a notice dated January 21, 2012 against the proposed dismissal from service. The petitioner did not submit any reply to the said show cause notice. The disciplinary authority was of the view that the continued illegal absence of the petitioner is contrary to the expected norms of service and is detrimental to the discipline of the force.

The petitioner was enrolled as a Constable on August 14, 2006 with the Border Security Force. The disciplinary authority, therefore, **dismissed** the petitioner from service with effect from March 16, 2012 without any pensionary or other benefits. The period between October 2, 2011 and March 16, 2012 was treated as "*dies-non*". The petitioner appealed

against such order of dismissal on June 18, 2014, more than two years after the date of the order of dismissal. Such prayer was rejected by an order dated July 7, 2014 by the appropriate authority. Again, an application was made by the petitioner after July 2014. Such application was rejected by the appropriate authority on November 24, 2014. A further application was made by the petitioner, which was for reinstatement and the same was again rejected on June 15, 2015. It was also recorded in the said order that the petitioner's prayer was already rejected on November 24, 2014. The allegations against the other members of the force regarding misguiding the petitioner were examined and found to be baseless by the appropriate authority.

Thereafter, the petitioner made an application before the Central Administrative Tribunal, Patna Bench at Patna. The said application was rejected on the ground of maintainability by an order dated November 27, 2015. The petitioner filed a writ petition being Case No.5990 of 2016 in the High Court of Judicature at Patna. By an order dated November 20, 2018, the said writ petition was rejected on the ground of territorial jurisdiction.

From November 2018 till July 29, 2023, the petitioner did not take any step to agitate his

grievance. On July 29, 2023, the petitioner made an application before the President, Bihar State Bar Council against the advocate who represented the petitioner before the High Court of Judicature at Patna.

The petitioner has filed the instant writ petition on August 23, 2023.

This Court has perused the orders passed by the authorities concerned. This Court has also recorded that the petitioner was granted opportunity to reply to show cause, which the petitioner failed to do. Furthermore, the order passed by the disciplinary authority was challenged after more than 2 years. After the order passed by the High Court of Judicature at Patna in 2018 almost for 5 years, the petitioner did not take any step. Thereafter, the petitioner made allegations against his own advocate. The petitioner has now sought to challenge the order passed by the disciplinary authority and affirmed by the appropriate authority in the present writ petition.

This Court is not willing to entertain the present writ petition on the ground of inordinate delay.

On merits also, this Court finds that ample opportunity was afforded to the petitioner to reply to the show cause and appear before the disciplinary authority which the petitioner did not avail of.

Accordingly, **WPA 20978 of 2023** is **dismissed**.

Since no affidavits have been directed to be exchanged in the writ petition, the allegations contained therein are deemed not to have been admitted by the respondents.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)