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

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Date of decision: January 23, 2023

+ W.P.(C) 851/2023

EX./LNK. RADHA CHARAN SHARMA Petitioner

Through: Mr. Shree Prakash Sinha, Mr. Anand Kumar, Mr. Akshit Anand, Mr. Rakesh Mishra and Mr. Rishabh Gupta, Advocates

versus

UNION OF INDIA AND ORS Respondents

Through: Mr. Farman Ali, Sr. Panel Counsel with Ms. Avshreya Rudy, GP, Ms. Usha Jamnal, Mr. Krishan, Advocates and Mr. Hemendra Singh, DC (Law), BSF

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. Vide the present petition, petitioner seeks quashing of impugned order dated 15.06.2019 passed by respondent No.3.
2. In earlier round of litigation in W.P.(C) 1998/2017 filed by the petitioner herein, the said petition was dismissed by a Co-ordinate Bench of this Court vide order dated 07.03.2019 upholding the petitioner's dismissal from service, however, liberty was granted to the petitioner to make a representation before the respondents for grant of Compassionate Allowance

under Rule 41 of the CCS (Pension) Rules.

3. Accordingly, the petitioner made representation dated 28.03.2019 before the respondents. The respondent No.3 vide impugned order dated 15.06.2019 dismissed the representation of the petitioner on the ground that he was rightly dismissed from the service.

4. Respondent No.3 has made observations in para 7 of the impugned order dated 15.06.2019 which are as under:

“7. Whereas, in the instant case, undersigned has examined your request in detail but has not found any extenuating features in your case that would make the punishment awarded to you as unduly hard in view of the conduct you have put in during your service.”

5. Learned counsel for petitioner submits that vide order dated 07.03.2019, the directions passed to the respondents were to decide the representation made by the petitioner for grant of Compassionate Allowance under Rule 41 of the CCS (Pension) Rules whereas vide the impugned order dated 15.06.2019, the respondent No.3 has only justified the dismissal of the petitioner from service which is evident from para 7 of the said order reproduced above.

6. Notice issued.

7. Learned Senior Panel Counsel for the respondents accepts notice. Though learned Senior Panel Counsel has disputed the issue(s) raised in the present petition by the petitioner, however, he submits that the impugned order was passed on 15.06.2019 and now, petitioner is challenging the same today, which is barred by delay and laches.

8. Be that as it may, in the interest of justice, we hereby direct the respondents to pass a fresh order on representation dated 28.03.2019 preferred by the petitioner in terms of order dated 07.03.2019 passed by a

Co-ordinate Bench of this Court in W.P.(C) 1998/2017 within six weeks from today.

9. With the aforesaid directions, the present petition is disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 23, 2023/rk

