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

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Date of decision: 04.05.2023

+ **W.P.(C) 5806/2023**

SUBEDAR DINESH NAIR T (JC-571374H) Petitioner

Through: **Mr. S. K. Pathak and Mr. Ashutosh S,
Advocates.**

versus

UNION OF INDIA & ORS. Respondents

Through: **Mr. Ajay Digpaul, CGSC with Mr.
Kamal R. Digpaul and Ms. Swati
Kwatra, Advocates.
Major Partho Katyayan**

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

CM APPLs. 22740/2023 and 22741/2023(exemption)

1. The application is allowed, with a direction to the applicant to file requisite legible copies of documents and annexures within four weeks.
2. The application is accordingly disposed of.

W.P.(C) 5806/2023

3. The petitioner in his present petition has made following prayers:
 - a) *To quash the order of the Chief of Army Staff dated 21.02.2022 being illegal and arbitrary passed on the statutory complaint dated 05.08.2020.*
 - b) *To set aside the punishment "severe reprimand" awarded*

to the petitioner on 28.01.2006 by commanding officer, 15 MAHAR, PIN-911515, c/o 56 APO.

- c) To direct the respondents to clear the service record of the petitioner by removing the punishment from there.*
- d) To quash the Army Order AO/13/2006/PS being illegal arbitrary, inconsistent with and contrary to the spirit and intent of the provisions of section 26 (2) of the Army Act 1950.*

4. The present petition is filed challenging the punishment of “severe reprimand” awarded to the petitioner on 28.01.2006 by Commanding Officer, 15 MAHAR, PIN-911515, C/o 56 APO.

5. Learned counsel for the petitioner submits that in the Army Order AO/13/2006/PS dated December, 2006 which is annexure P-30, there is no limit to file the statutory complaint against the “severe reprimand” awarded by the respondents.

6. However, the petitioner made a statutory complaint on 03.05.2008 and as submitted by the learned counsel for the petitioner, the said complaint was not processed by the respondents.

7. Learned counsel for the petitioner further submits that after statutory complaint dated 03.05.2008, numerous statutory complaints were filed but no response was received from the respondents.

8. The fact remains that in the present petition, the petitioner is challenging the “severe reprimand” dated 28.01.2006 awarded to the petitioner and thereafter if the respondents did not process this statutory complaint, the petitioner should have approached the Court at that very stage.

9. Now after the “severe reprimand”, 17 years have passed and moreover in the impugned order it is stated that the complainant had

challenged the aforesaid punishment through the instant statutory complaint dated 05.08.2020, after a gap of 15 years.

10. Accordingly, it is evident that statutory complaint is hit by delay and laches.

11. Accordingly, the present petition is disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

MAY 04, 2023/PA

