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

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Judgment delivered on: 10.08.2023

+ **W.P.(C) 10540/2023 & CM APPL. 40874/2023**

EX-CONSTABLE S. JAGAOEESAN

..... Petitioner

versus

UNION OF INDIA AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioners: Mr. Aniruddha Datta, Advocate

For the Respondents: Mr. Jivesh Tiwari, Senior Panel Counsel with Mr. Vinod Tiwari, GP for UOI/R-1

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order of discharge dated 06.07.2001 contending that the same was passed without jurisdiction.
2. Petitioner was enrolled in Border Security Force in the year 1990. Petitioner was granted leave till 23.03.2001, however, petitioner failed to report for duty after expiry of the leave and show cause notice dated 02.06.2001 was issued.



3. Since no reply was received to the show cause notice, the dismissal order dated 06.07.2001 was passed.
4. Petitioner has not challenged the said order or represented against the order dated 06.07.2001 for over 22 years. The ground of dismissal is that he was unauthorizedly absent for a period of 103 days.
5. Learned counsel for the petitioner submits that Section 62 of the BSF Act, 1968 has not been complied with. This submission of learned counsel for the petitioner has no merit for the reasons that show cause notice dated 02.06.2001 itself records that report relating to his absence has been considered and the Commandant was satisfied that the trial was Security Force Court was inexpedient and impracticable.
6. Not only the petition is highly belated having been filed after 22 years of passing of the impugned order, the impugned order has been passed keeping in view the fact that petitioner had absented from duty for over 103 days.
7. The Supreme Court by judgment dated 28.07.2023 in ***Civil Appeal No. 246/2017*** titled as '***Ex. Sepoy Mandan Prasad Vs. Union of India & Ors.***', has specifically held that discipline is the hallmark of the Armed Forces and a non-negotiable condition of service.
8. In view of the above, we find no ground to interfere with the



impugned order; both on account of delay and laches and also on account of merits. This, of course, is without prejudice to the objections raised by the respondent with regard to the territorial jurisdiction of this Court.

9. We find no merit in the petition. The petition is accordingly dismissed.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

AUGUST 10, 2023
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