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

Judgment delivered on: 29.08.2023

+ W.P.(C) 11454/2023 & CM APPL. 44566/2023

EX CT KISHANPAL SINGH

..... Petitioner

versus

UNION OF INDIA AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Puru Mudgal, Advocate

For the Respondents: Mr. Rajesh Gogna, CGSC with Mr. Abhishek Khanna, GP for UOI

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 27.10.2006 whereby petitioner has been dismissed from service. Petitioner also impugns order dated 16.04.2007 whereby statutory petition against the order of dismissal was rejected being devoid of merits.

2. Petitioner was enrolled with the Border Security Force as a Constable. Petitioner is alleged to have assaulted his superior officer; used threatening language to his superior officer and acted prejudicial to good order and discipline of the force and was also found to be



intoxicated at the time when petitioner was posted at the forward defended locality which is right next to the Line of Control.

3. Petitioner pleaded guilty of the charges and was consequently sentenced to dismissal from service.

4. Petitioner filed a statutory representation which was also rejected by order dated 16.04.2007.

5. Thereafter petitioner has suddenly woken and given a representation on 10.02.2023 which has been rejected on 26.04.2023.

6. We noticed that petitioner was charged with serious offence of assaulting a superior officer as also using threatening language to which petitioner pleaded guilty. Petitioner was sentenced in the year 2006 and his statutory petition was dismissed in 2007. For 17 years, petitioner did not take any action or challenge any of the orders.

7. In our view, the petition filed by the petitioner at this juncture is highly belated. Accordingly, we are not inclined to entertain the same after a lapse of merely 17 years.

8. Learned counsel for the petitioner submits that in case the petition were to be entertained and petitioner were to be awarded a lesser punishment, petitioner would be entitled to grant of pensionary benefits and grant of pensionary benefits is a recurring cause of action.

9. We are unable to accept the contentions of learned counsel for



the petitioner for the reasons petitioner has been dismissed from service and the sequitur to that is that petitioner forfeits his right to pension. Unless the order is set aside, petitioner would not be entitled to pension and since the petitioner has woken up after a gap of nearly 17 years, we are not inclined to interfere with the order dismissing the petitioner from service. Since the order of dismissal from service stands, petitioner is not entitled to any pensionary benefits and as such there is no recurring cause of action in favour of the petitioner.

10. Further, mere fact that petitioner filed a representation after 16 years which has now been rejected would not give rise to a fresh cause of action to the petitioner to challenge the order of dismissal passed in 2006 which has become final.

11. Since this Court has held that the challenge by the petitioner is highly belated, we have not entertained the submissions of learned counsel for the petitioner impugning the order convening the Summary Security Force Court in the year 2006.

12. In view of the above, we find no merit in the petition. The petition is consequently dismissed.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

AUGUST 29, 2023

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