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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 22864 of 2024

Sri Sunil Kumar Agasti

-Vs-

The Union of India & Ors.

Mr. Goutam Dey,
Mr. Prateep Bera,
Ms. Ankita Ghosh,
Ms. Somasree Bakshi

... for the petitioner

Mr. Sahasrangshu Bhattacharjee,
Mr. Loknath Chatterjee

... for the Union of India

Mr. Ashok Kumar Jena

... for the respondent nos. 2 to 7

The petitioner has challenged the final order dated 7th January, 2011 passed by the Disciplinary Authority against the petitioner in connection with a charge sheet served through a Memorandum dated 13th November, 2007.

On 5th December, 2024, this matter was adjourned to enable the learned advocate for the petitioner to produce any document to demonstrate that after the final order passed in the disciplinary proceedings, by which the petitioner's pay was reduced by five stages for three years, the petitioner had received the same without prejudice to his rights and contentions. No document has been produced from the

side of the petitioner to demonstrate that a contemporaneous complaint or even a belated complaint had been made by the petitioner while accepting the reduced salary without prejudice to this rights and contentions.

The final order dated 7th January, 2011 passed by the Disciplinary Authority was not challenged before. It has been challenged only by filing the instant writ petition on 7th September, 2024. In the absence of any document to demonstrate that the petitioner had challenged the disciplinary proceedings prior to filing of the instant writ petition for which the petitioner is entitled to file and mention the writ petition after about 15 years or that he had accepted the final order of the Disciplinary Authority dated 7th January, 2011 without prejudice to his rights and contentions, this writ petition is not maintainable on the ground of inordinate delay and laches on the part of the petitioner as has been held by the Hon'ble Supreme Court in the judgment reported in 2014 (4) SCC 108 (***Chennai Metropolitan Water Supply and Sewerage Board and Others vs. T.T. Murali Babu***) That apart, even the final order of the Disciplinary Authority has been accepted and acted upon by the petitioner as also by the employer i.e. Syama Prasad Mookerjee Port, Kolkata. The parties, therefor, have changed their position by accepting the reduced salary and acting

upon the order dated 7th January, 2011. The petitioners's claim is also barred by waiver and estoppels and/or the principles analogous thereto which operates against the petitioner.

The petitioner has cited a judgment of the Hon'ble Supreme Court passed on 5th August, 2024 in ***Civil Appeal Nos. 8435-8436 of 2024 (Mool Chandra versus Union of India & Anr.)***, to contend that the delay cannot be a ground to reject the writ petition when the petitioner has a substantive challenge to the order of the Disciplinary Authority. The judgment and order passed in *Mool Chandra (supra)* relates to a sole charge framed against the employee concerned in that case on the basis of a complaint made by his wife that the employee had deserted his wife and two school going children and was residing separately along with another woman without judicial separation. During the enquiry proceedings, the complainant-wife filed an affidavit withdrawing her complaint on the ground that there had been some misunderstanding. On that ground, the Hon'ble Supreme Court interfered with the order of the Disciplinary Authority terminating the service of the employee.

The facts, in the instant case, are totally different. The law is well settled that in case of service related claim, if the same is made at a belated stage, it is liable to be rejected and the writ petition is also liable to be

dismissed on the ground of inordinate delay and laches on the part of the petitioner.

The writ petition, therefor, fails on the ground of inordinate delay and laches on the part of the petitioner, waiver and estoppels and/or the principles analogous thereto. The writ petition is accordingly dismissed.

(Arindam Mukherjee, J.)