



2024:DHC:8837-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 12.11.2024***+ W.P. (C) 3764/2024
OM NARAYAN MISHRA

.....Petitioner

Through: Mr. Uday Pratap Lal, Adv.

Versus

UNION OF INDIA & ORS

.....Respondents

Through: Mr. Vivek Sharma, Sr. Panel
Counsel with Ms. Prerna
Singh, Advs. for R-1 to R-7.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****NAVIN CHAWLA, J. (Oral)**

1. This petition has been filed by the petitioner praying for the following reliefs:-

- “(a) *Issue a writ, order or direction in the nature are mandamus directing and commanding the respondents No.2, 3 and 7 to grant retiral benefits to the petitioner for the post of Constable No. 811190134 B.N. 55 E Company Central Reserve Police Force and quashed the orally termination order on dated 20.02.2013.*
- (b) *Issue writ, order or direction in the nature mandamus commanding/ directing the Respondents No. 3, 6 and 7 decide the representation mover the petitioner DATED 21-5-1992, 22-6-1993, 25-4-1994, 2-12-1996, 4-11-1998, 10-10-2000, 21.09.2001, all the*



said representation are still pending;”

2. Briefly stated, the facts giving rise to the present petition are that the petitioner joined the 55th Battalion in the Central Reserve Police Force (CRPF) as a Constable on 20.01.1981. As a Constable, the petitioner initially served at New Delhi and then went on to serve in Manipur, Nagaland and Dibrugarh, between the years 1982 and 1986. On 20.02.1986, the petitioner was diagnosed with ‘Dementia’ and was advised to be on bed rest for a period of five years. Thereafter, the same doctor, Dr. S.C. Tripathi, BMS Allahabad, advised the petitioner five years’ bed rest on multiple occasions, the dates being 21.03.1991, 22.05.1996, 23.08.2001, 24.12.2006 and finally, on 31.12.2012, he was declared fit to re-join duty. During this period, the petitioner made various representations to the respondents, requesting that he be allowed to re-join duty.

3. The petitioner claims that he received no response to his representations, however, he received an oral rejection from the respondents on 20.02.2013. He, thereafter, preferred a petition before the High Court of Judicature at Allahabad, being Writ A. No. 3606/2013. The said petition, on 10.01.2024, was dismissed on the ground of lack of territorial jurisdiction, compelling the petitioner to approach this Court.

4. The learned counsel for the petitioner submits that apart from contending that the petitioner had applied for discharge from service *vide* application dated 03.01.1986, which was accepted by the Competent Authority of the respondents *vide* office order dated



30.01.1986, the respondents have failed to produce the said documents on record.

5. The respondents in their counter affidavit have asserted that the petitioner had applied for discharge from service *vide* application dated 03.01.1986, which was duly accepted by the Competent Authority under Rule 17 of the CRPF Act and the Rules with effect from 02.04.1986. The respondents allege that there was no oral communication of termination dated 20.02.2013 as claimed by the petitioner.

6. The respondents have further challenged the present petition by contending that it is liable to be dismissed on the ground of delay and laches alone. The learned counsel for the respondents contends that due to long passage of time, the service record of the petitioner has been weeded out and now it is not possible to produce the application by which the petitioner had sought discharge from service or the order accepting the same. He submits that the petitioner has also not filed any proof of sending the representations that he alleges to have sent to the respondents.

7. We have considered the submissions made by the learned counsels for the parties.

8. Apart from asserting in the present petition that the petitioner has been under treatment since 20.02.1986 and had been making several representations requesting the respondents to allow the petitioner to join the service, the petitioner has not placed any response of the respondents to the said request/representations. In fact, it is the own case of the petitioner that the said representations



remained unheeded. In spite of the same, the petitioner first approached the High Court of Judicature at Allahabad only sometime in the year 2013, that is after a delay of almost 27 years. According to the petitioner, the petitioner was, without any justifiable reason, not allowed by the respondents to join the service, however, the respondents claim that the said refusal was due to the petitioner's request for discharge from service, which had been accepted. In the meantime, as claimed by the respondents, the service record of the petitioner is no longer traceable and has been weeded out.

9. Though the petitioner claims to have made repeated representations to the respondents, no proof of actually sending or delivering the same to the respondents has been filed on record. The learned counsel for the petitioner has submitted that such proof had been filed by the petitioner before the High Court of Judicature at Allahabad along with his rejoinder. We are afraid that as the proof has not been filed before us, we cannot render any finding on basis of this assertion.

10. Even otherwise, it is trite law that the submission of repeated representations cannot be a ground to condone delay. It is not open for an employee to belatedly approach the Court on the pretext that he/she was awaiting consideration of his/her representation, as filing of a representation does not exempt an employee from the law of limitation.

11. Though there is no period of limitation prescribed for filing of a Writ Petition under Article 226 of the Constitution of India, the principles of delay and laches will apply. We are of the considered



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opinion that the present petition is liable to be dismissed solely on the ground of delay and laches. The petitioner had filed the first challenge to his removal from service only in 2013, that is, after an expiry of 27 years. There is no explanation for this delay, with the exception of the petitioner stating that he had made repeated representations. As noted above, such representations, even if duly delivered to the respondents, cannot extend the period of limitation or extend the cause of action for the petitioner for filing of the petition or be considered an adequate explanation for the delay and laches that attach to the filing of the petition.

12. Accordingly, we dismiss the present petition only on the ground of delay and laches.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 12, 2024/rv/as

Click here to check corrigendum, if any