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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision:- 02.08.2024***

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W.P.(C) 10677/2024**KRISHNA PADA BISWAS****.....Petitioner**

Through: Mr. Krishna Kumar Yadav, Mr.
Rahul Yadav and Mr. Dheeraj Kumar,
Advs.

versus

THE UNION OF INDIA & ORS.**.....Respondents**

Through: Mr. Soumava Karmakar, SPC with
Mr. Amit Kumar Rana, Mr. Nishant
Singh and Mr. Sarvesh Srivastav,
Advs. for UOI.

CORAM:**HON'BLE MS. JUSTICE REKHA PALLI****HON'BLE MS. JUSTICE SHALINDER KAUR****REKHA PALLI, J (ORAL)****CM APPL. 43913/2024 and CM APPL. 43914/2024 (exemptions), CM
APPL. 43915/2024 –Ex. LLOD**

1. Allowed, subject to all just exceptions.
2. The applications stand disposed of.

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3. The petitioner, who was serving as a Constable with the Border Security Force (BSF) from 21.06.1985 till 31.08.1997 i.e., the date when he tendered his resignation, has approached this Court seeking quashing of order dated 29.08.2012 passed by DIG, BSF. Vide the impugned order, the



representation to the respondents made by the petitioner's wife for granting him pension/ reinstatement has been rejected by observing that since the petitioner had not completed 20 years of mandatory service required for earning pension, his request for grant of pension could not be accepted. Furthermore, despite ample opportunities given to the petitioner, he had failed to exercise his option to rejoin service, therefore, his request for reinstatement could also not be considered at this belated stage.

4. At the outset, we may note that before approaching this Court, the petitioner had approached the Calcutta High Court as also the Apex Court by way of two different writ petitions seeking essentially the same relief i.e., for grant of pension, which were both dismissed without granting him any liberty to file a fresh petition.

5. In these circumstances, we have put to learned counsel for the petitioner as to how the present petition would be maintainable when the earlier two writ petitions filed by the petitioner in respect of the same grievance stand dismissed without any liberty being granted to him to file a fresh petition. In response, he submits that since the earlier petitions were dismissed in *liminie*, without the petitioner's grievance being determined on merits, he is justified in raising a claim for pension/reinstatement as he is facing grave financial hardship. Even though we are unable to accept this plea as we are of the view that this would amount to the petitioner resorting to forum hunting, we have still examined his claim on merits, but find absolutely no reason to interfere with the impugned order.

6. Once it is the own case of the petitioner that he had served in the BSF only for about 12 years before tendering his resignation under Rule 19 of the BSF Rules, and had therefore not completed 20 years of service, his claim



for grant of pension is liable to be rejected. In this regard, reference may be made to paragraph 22 of ***Union of India and Others vs. Rakesh Kumar, (2001) 4 SCC 309***, which reads as under:

“22. In the result, there is no substance in the contention of the learned counsel for the respondents that on the basis of Rule 49 of the CCS (Pension) Rules or on the basis of the GO, the respondents who have retired after completing qualifying service of 10 years but before completing qualifying service of 20 years by voluntary retirement, are entitled to get pensionary benefits. The respondents, who were permitted to resign from service under Rule 19 of the BSF Rules before the attainment of the age of retirement or before putting such number of years of service as may be necessary under the Rules, to be eligible for retirement are not entitled to get any pension under any of the provisions under the CCS (Pension) Rules. Rule 49 only prescribes the procedure for calculation and quantification of the pension amount. The GO dated 27-12-1995 does not confer any additional right of pension on BSF employees.”

7. We have also considered the petitioner’s plea that if he cannot be granted pension as was assured to him at the time of his resignation, he should be reinstated in service. We are, however, of the view that no such relief can be granted to the petitioner at this belated stage as we find that it is his own case that he was on 27.12.1997 informed by the respondents that his case for pension had been rejected by the Pay and Accounts Department (PAD), BSF on account of his not completing the qualifying service for pension. Despite being informed that he was not eligible for pension in December, 1997 itself, the petitioner chose to remain silent and for the first time, on 23.05.2007, submitted a representation seeking his re-instatement in service.

8. This representation, we find, was followed by representations dated 17.11.2011 and 28.03.2012 which have been rejected vide the impugned order dated 29.08.2012 informing the petitioner that since he had, at that



stage, not responded to the two call-up notices asking him to rejoin duty, he could now not be reinstated in service. For reasons best known to him, the petitioner, again chose to remain silent for another 11 years, till he approached the Apex Court by way of WP(C) No. 119/2021, which writ petition was dismissed on 08.02.2021. It is after yet another *hiatus* of 3 years that the petitioner has approached this Court praying that he be either granted pension or be reinstated in service.

9. It is thus an admitted position, that the petitioner having resigned in 1997, after merely 12 years of service, has already remained out of service for the last more than 27 years. There is no explanation by him either as to why he did not rejoin service when offered by the respondents or as to why he did not approach the Court in time. Consequently, when the petitioner has attained the age of 57 years and has only himself to blame for the delay and laches on his part in approaching this Court, we are unable to accept his plea for issuance of any directions for his re-instatement in service.

10. The writ petition, being meritless is, accordingly dismissed.

REKHA PALLI, J.

SHALINDER KAUR, J.

AUGUST 02, 2024/ss