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

+ **W.P.(C) 11003/2024**

BRAHAMJIT SINGH

.....Petitioner

Through: Brig. Anil Srivastava, VSM (Retd)
and Ms. Anupreksha Jain, Adv.

versus

UNION OF INDIA AND ORS

....Respondents

Through: Mr. Kanav Vir Singh, SPC with Mr.
Hussain Taqvi, G.P. along with Major
Anish Muralidhar (Army)

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

% **08.08.2024**

CM APPL. 45407/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present writ petition under Article 226 of the Constitution of India seeks to assail the order dated 09.12.2011 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi ("Tribunal") in T.A. No.65/2010 vide which the learned Tribunal has modified the order dated 03.09.1993, whereby he was dismissed from service, to that of discharge.

4. At the outset, learned counsel for the respondents, who appears on advance notice, vehemently opposes the petition on the ground of delay and latches and submits that the petitioner has approached this Court almost after 13 years for which there is no justifiable explanation. He, therefore, prays that the petition be dismissed.

5. In response, learned counsel for the petitioner contends that the



petitioner learnt about the impugned order only in May, 2024 as Sh. B.S. Jain, the counsel engaged by him to pursue the proceedings on his behalf before the learned Tribunal, unfortunately expired during the pendency of the matter. His Associates who conducted the proceedings before the learned Tribunal on his behalf but did not inform him about the outcome of the case.

6. He submits that it is only after personal visits by the petitioner to the office of late Sh. B.S. Jain that his case file could be traced and was handed over to him in May, 2024. It was only then that he learnt about the impugned order. Accordingly, he has approached this Court on 31.07.2024 challenging the impugned order.

7. At the outset, we may note that the petitioner had earlier preferred a writ petition bearing no. 2689/2001 before this Court which was transferred to the learned Tribunal and it is the said petition which has been disposed of vide the impugned order. In the aforesaid writ petition, the petitioner's main ground of challenge to the dismissal order dated 03.09.1993 was that the respondents had disproportionately awarded him the penalty of dismissal from service without considering the nature of his misconduct. As noted hereinabove, the Tribunal has, vide the impugned order, modified the penalty of dismissal imposed on the petitioner to that of discharge.

8. However, before we deal with the merits of the writ petition, it would be necessary to consider the respondent's objection regarding the delay and laches in filing of the writ petition. Having considered the submissions by the parties and perused the record, we are unable to accept the bald plea of the petitioner that the delay in approaching this Court was only attributable to the office of his erstwhile Advocate late B.S. Jain as upon his demise, the Associates of late B.S. Jain did not inform him about the status of his case.



9. It also does not appear to reason that the petitioner after having engaged an Advocate, did not enquire about the proceedings of his case for such a long duration. Even if the erstwhile Advocate had expired, his Associates continued to pursue the case, it, therefore, cannot be believed that the petitioner did not endeavour to obtain the status of his case from the said Associates and approached their office belatedly in May 2024 only. Nonetheless, it is beyond comprehension that the said Associates did not contact him for instructions in his case. Moreso, it is not the case of the petitioner that he had no knowledge of seeking redressal through legal recourse specifically when he had earlier filed a writ petition before this Court against the order of dismissal from service. Thus, it cannot be said that the petitioner was oblivious of the legal procedures and had no knowledge that he had to diligently pursue his case even though he had engaged an Advocate.

10. Needless to state, it is the duty of every litigant to be aware of the proceedings in his case. A litigant is not absolved of his duties and responsibilities by just engaging an Advocate and is required to actively and diligently pursue his *lis* along with his Advocate.

11. We find the explanation given by the petitioner to justify this inordinate delay of 13 years to be absolutely unjustifiable. In light of the aforesaid, we find no reason to entertain the present petition, which is dismissed on the ground of delay and latches itself.

12. The writ petition is accordingly dismissed.

REKHA PALLI, J

SHALINDER KAUR, J

AUGUST 8, 2024/ns