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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 16599/2023

KANWAL SINGH

..... Petitioner

Through: Mr. Anshuman Mehrotra, Adv.
alongwith the petitioner in person.

versus

UNION OF INDIA AND ORS

..... Respondent

Through: Mr. K.C.Dubey, Adv. for R-1
Mr. Rajesh Kumar, SC with Mr. Shivam, Adv. for
R-2 & R-3.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

19.03.2024

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1. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 25.04.2019 passed by the learned Central Administrative Tribunal (the Tribunal) in O.A. 1188/2012. Vide the impugned order, the learned Tribunal has rejected the O.A. filed by the petitioner wherein he had assailed the charge-sheet dated 11.01.2007, the order dated 27.08.2010 vide which a penalty of compulsory retirement from service was imposed on him and the appellate order dated 02.08.2011. The petitioner also assails the order passed in the Review Petition on 02.03.2020, vide which his review application has been dismissed by the learned Tribunal.



2. Learned counsel for the petitioner submits that even though the petitioner had been diligently pursuing his O.A. since 2012, his erstwhile counsel, due to unavoidable reasons, could not appear before the learned Tribunal on 25.04.2019, when the learned Tribunal proceeded to dismiss the aforesaid O.A. without granting the petitioner any opportunity to make his submissions. He, therefore, prays that the impugned order be set aside and the matter be remanded back to the learned Tribunal for adjudication of O.A. on merits.
3. On the other hand, Mr. Rajesh Kumar, Advocate, learned counsel for respondent no.2 and 3, supports the impugned order and submits that when the petitioner without any justifiable cause chose to remain unrepresented before the learned Tribunal on 25.04.2019, the learned Tribunal could not be faulted for taking up the O.A. for consideration on merits. Furthermore, even though the petitioner's Review Petition was dismissed by the learned Tribunal on 02.03.2020, he has filed the present petition after an inordinate delay on 19.12.2023. He submits that even otherwise the petitioner has no case on merits and, therefore, prays that the writ petition be dismissed.
4. Having considered the submissions of learned counsel for the parties, we are of the view that taking into account that the O.A. filed by the petitioner had remained pending before the learned Tribunal since 2012, he ought not to be deprived of at least one opportunity to make his submissions. In our view, merely because the petitioner's erstwhile counsel had failed to appear before the learned Tribunal on the date when the matter was taken up for final hearing i.e., 25.04.2019, he should not be penalized. The learned Tribunal has



failed to take into account that the petitioner was all along pursuing his O.A. and therefore deserved at least one opportunity to make his submissions on merits.

5. We have also considered the respondents' plea that the present writ petition was filed belatedly but are unable to accept the same. Taking into account the orders passed by the Apex Court in *Suo Motu* Writ Petition (Civil) No.3 of 2020, the period between 16.03.2020 and 28.02.2022 was required to be excluded for the purposes of computing limitation and therefore it cannot be said that there was any inordinate delay on the part of the petitioner in approaching this Court.
6. In the light of the aforesaid, we are of the view that the impugned orders deserves to be set aside. The writ petition is, accordingly, allowed by setting aside the orders dated 25.04.2019 and 02.03.2020 passed by the learned Tribunal. The writ petition and the O.A. is remanded back to the learned Tribunal for fresh adjudication thereof on merits. This would, however, be subject to payment of costs of Rs. 10,000/- payable to Green Delhi Account (Office of Conservator of Forests, UCO Bank, Delhi High Court, A/C No. 15530110156933, IFSC Code: UCBA0001553).
7. While setting aside the impugned order, it is, however, made clear that this Court has not expressed any opinion either on the merits of the impugned order or on the rival claims of the parties and the impugned orders are being set aside only on account of the same being *ex parte* orders.
8. It is, further, directed that the learned Tribunal will not grant any



unnecessary adjournment to any of the parties.

9. List before the learned Registrar of the Tribunal on 08.04.2024 for further proceedings.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

MARCH 19, 2024
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