



2024:DHC:3767



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

% Judgment delivered on: 03.05.2024

+ **W.P.(C) 1147/2024 & CM APPLS.4813-4814/2024****TEJ SINGH**

..... Petitioner

versus

STATE OF NCT OF DELHI

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Dr. Ranjeet Bharti and Mr. Praveen
Kumar Jha, Advocates

For the Respondent : None.

CORAM:**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****J U D G M E N T****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]****W.P.(C) 1147/2024 & CM APPL. 4813/2024, CM APPL. 4814/2024
CM APPL. 10800/2024 (Delay of 2473 days in filing writ petition)**

1. This is a writ petition under Article 226 of the Constitution of India challenging the impugned order dated 09.08.2017 whereby the petitioner was dismissed from services on account of misconduct and dereliction of duties and other charges by the disciplinary authority.

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2. The petitioner has by way of writ petition bearing W.P.(C) 6971/2019 captioned as “*Tej Singh Vs. The Administrative Civil Judge Central District, Tis Hazari Courts, Delhi*” impugned the present impugned order, however, on 04.07.2019 after some arguments, counsel for the petitioner sought permission to withdraw the petition. The said petition was permitted to be withdrawn. What is relevant to consider so far as the said order dated 04.07.2019 is concerned is the fact that the petitioner at that time did not seek any liberty to reagitate the said challenge. Despite having withdrawn the said petition, the petitioner did not challenge the impugned before the passage of almost five years from 04.07.2019 passed in W.P.(C) 6971/2019 and has filed the present writ petition only in the year 2024. This Court while hearing the petitioner on the admission hearing had made the following observation on 25.01.2024 which are as under.

“1. This is a petition under Article 226 of the Constitution of India seeking a writ of certiorari or any other writ / order / direction to quash the office order No.45255/Vig/2017 dated 19.05.2017 passed by the District & Session Judge as Disciplinary Authority and seeking mandamus to reinstate as a Process Server.

2. At the outset, this Court has observed that the petitioner had already challenged the dismissal by the disciplinary authority vide the order dated 19.05.2017 by way of a writ petition bearing W.P.(C) 6971/2019. The said petition was dismissed as withdrawn on 04.07.2019, however, without seeking liberty to challenge the said impugned order afresh.

3. The present petition has now been filed after a lapse of seven years from the date of the impugned order and five years from the date of the order of this Court on 04.07.2019. No application or affidavit explaining the reasons for delay has been filed with the present petition.



4. *Learned counsel for the petitioner seeks and is granted two weeks time to place on record detailed affidavit explaining delay in filing the present petition.*”

3. Consequent thereto, the petitioner has filed an application bearing CM APPL. 10800/2024 under Section 5 of the Limitation Act, 1963, seeking condonation of delay in filing the present writ petition. In the said application, the petitioner has submitted that he could not approach this Court post 2019 since he was suffering from health issues and running huge financial debt after the unfortunate death of his wife due to cancer. He also submitted that he could not pay the fees of the counsel and thereafter the entire country was effected by the Covid-19 pandemic. On account of the aforesaid, the petitioner submits that he could not approach this Court in time. He also submits that it was only now, that he was able to approach the counsel and requested for taking care of his interest *pro bono* that the writ petition has been filed.

4. Learned counsel also relied upon the judgment of Supreme Court in Civil Appeal No. 4628/2023 captioned “***Raheem Shah & Anr. Vs. Govind Singh & Ors.***” to buttress his case.

5. Learned counsel submits that wife of the petitioner was suffering from cancer and as such the petitioner was unable to approach this Court in time and that terminal disease lead to a financial disaster which prohibited this petitioner from approaching this Court or even approach the counsel for taking care of his interest.

6. This Court has considered the entire writ petition even on sympathetic ground, however, finds that the medical documents enclosed with the writ petition of the petitioner’s wife pertains to the



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year 2004 and sometime was thereafter. However, the time gap between such medical documents and the order of the dismissal dated 09.08.2017 is huge. Moreover, apart from oral submissions that the petitioner was also suffering from many diseases, not even a single document in respect of the petitioner's own medical issue has been placed on record. In the aforesaid circumstances, it is very difficult for this Court to appreciate any reason as to why the petitioner has approached this Court belatedly after almost seven years from the date of passing of the impugned order and five years from the date of the order dated 04.07.2019 passed by this Court in the earlier writ petition bearing W.P.(C) 6971/2019.

7. The Hon'ble Supreme Court in ***Raheem Shah (Supra)*** while relying upon the judgment of Supreme Court in ***Collector, Land Acquisition, Anantnag & Anr. Vs. Mst. Katiji & Ors.*** reported in **(1987) 2 SCC 107** has held that Courts have to liberally condone the delay and consider the matter on merits as far as practical. In the case of ***Raheem Shah*** it was observed that there was a delay of 52 days in filing the appeal and despite having filed an application under Section 5 of the limitation Act, 1963 the same was rejected by the appellate Court. It was these circumstances that the Supreme Court that considered judgment of the effect of ***Mst. Katiji (supra)*** and rendered the aforesaid judgment. However, in the present case, the facts as enumerated do not instill confidence in this Court. Moreover, even while withdrawing the present petition on 04.07.2019, the petitioner did not even seek permission or liberty to refile or re agitate the challenge to the impugned order.



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8. In that view of the matter, the application seeking condonation of delay is dismissed. Consequently writ petition is also dismissed only on limitation, however, without any order as to costs.

TUSHAR RAO GEDELA, J.

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