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

% ***Date of Decision: 18th May, 2026***

+ **W.P.(C) 6867/2026 and CM APPL. 33717/2026**

EX CPL RAJKIRAN KUMARPetitioner

Through: Dr. Abhay Kant Upadhyay and
Mr. Chandan Kumar Pandey,
Advs.

versus

THE UNION OF INDIA THROUGH ITS SECRETARY
MINISTRY OF DEFENCE & ORS.Respondents

Through: Mr. Kartik Bhatnagar, CGSC
with Mr. Sumit Ranjan, GP
along with Ms. Aditi Bhatt, Ms.
Astha Prasad and Mr. Dinesh
Vishwakarma, Advs. for UOI.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T (O R A L)

AMIT MAHAJAN, J.

1. Through the present petition, *inter alia*, the Petitioner assails the correctness of order dated 09.02.2023 (hereafter '**impugned order**') in OA (Appeal) No. 2448/2021, whereby the learned Armed Forces Tribunal dismissed the Petitioner's challenge against the District Court Martial ('**DCM**') proceedings against him where he had been punished to undergo rigorous imprisonment for six months (out of which, four months were remitted), dismissal from service and to be reduced to



ranks.

2. Briefly stated, the Petitioner was enrolled as an Airman in the Indian Air Force on 30.12.2009. He was tried by DCM on 29.10.2019 on three charges— deserting service, overstaying leave without sufficient cause and absenting himself without leave. The Petitioner admitted all charges in the DCM. On being found guilty, subject to confirmation, the DCM sentenced the Petitioner to suffer rigorous imprisonment for six months, to be dismissed from service and to be reduced to the ranks. After considering the record, the pre-confirmation petition filed by the Petitioner was rejected by order dated 10.12.2019 by the Competent Authority, but four months rigorous imprisonment was remitted from the sentence awarded to him. Consequently, the Petitioner was dismissed from service on 30.12.2019. After more than two years, the Petitioner preferred a representation dated 20.04.2021 for reconsideration of his dismissal from service, which came to be rejected on 06.05.2021.

3. Aggrieved by the same, he approached the learned Tribunal arguing that he was a person of unsound mind and he had been forced to take leaves due to his marital disputes, which had caused him significant mental strain. Arguments in relation to trial not confirming to stipulated rules and the punishment being harsh were also made. Rejecting the contentions agitated by the Petitioner, by the impugned order, the learned Tribunal dismissed the OA.

4. Pertinently, although the impugned order was passed way back on 09.02.2023, the present petition has only been filed in April, 2026 after more than 3 years and 2 months. Before the matter can be



appraised on merits, the Petitioner has to overcome the hurdle of delay, for which, no cogent explanation is offered in the pleadings.

5. It is well-settled that although there is no prescribed period of limitation for preferring a writ petition, however, the same does not mean that a litigant is absolved of their onus to avail their remedies with a reasonable period of time. While exercising the extraordinary writ jurisdiction, it is incumbent on the Court to consider the aspect of delay and laches on part of the litigant. A litigant should approach the Court *at the earliest* reasonable possible opportunity and inordinate delay is a good ground to refuse to exercise such discretion [Ref. ***Tridip Kumar Dingal v. State of W.B. : (2009) 1 SCC 768***]. In this regard, we may also draw reference to the Judgment of the Hon'ble Apex Court in ***Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu : (2014) 4 SCC 108***, wherein it was held as under:-

“16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.”

6. Although the learned counsel for the Petitioner has sought to



argue that the Petitioner was under tremendous strain due to his ailing mental health, which was made worse by his dismissal from service, this explanation finds no favour with this Court. Pertinently, the Petitioner has maintained that he was suffering from psychological stress and ailments even prior to conduction of DME. The learned Tribunal has categorically rejected the argument that the Petitioner was of unsound mind by appreciating a medical fitness certificate produced before it, which showed that the Petitioner was fit to participate in the Court martial proceedings. As rightly noted by the learned Tribunal, no objection was raised against the same by the Petitioner and also the defending officer. Certain illegible and undated medical documents have also been annexed with the petition, which do not inspire any confidence and are insufficient to justify delay of such extent. The Petitioner was dismissed way back in December, 2019 itself and he only preferred a representation against the same and approached the learned Tribunal after two years in the year 2021.

7. Even otherwise, as rightly noted by the learned Tribunal, the Petitioner appears to be a habitual offender and he had categorically admitted the charges against him on *multiple* occasions. It has also been noted by the learned Tribunal that there was no procedural infirmity, and the Petitioner has explicitly submitted in writing that he has understood the ingredients of the charge.

8. In such circumstances, in the absence of any cogent explanation for delay, this Court is not inclined to exercise its extraordinary writ jurisdiction at such a belated stage.

9. In view of the aforesaid discussion, this Court finds no reason to



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entertain the present petition at such a belated stage.

10. The present petition is dismissed in the aforesaid terms. Pending application also stands disposed of.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

MAY 18, 2026

Signature Not Verified

Signed By: HARMINDER
KAUR

Signing Date: 20.05.2026
17:49:57

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