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MP-2318-2025

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,  
CHIEF JUSTICE

&amp;

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 28<sup>th</sup> OF OCTOBER, 2025

MISC. PETITION No. 2318 of 2025

*EX SEPOY CHAUHAN KISHORE MANDA BHAI (NO. 14812476W0*

*Versus*

*THE CHIEF OF ARMY STAFF AND OTHERS*

.....  
Appearance:

*Shri K.C. Ghildiyal - Senior Advocate with Ms. Warija Ghildiyal - Advocate for  
Petitioner.*

*Shri Ishan Soni - Advocate for Respondents.*  
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ORDER

*Per. Hon'ble Shri Justice Sanjeev Sachdeva, Chief Justice*

1. Petitioner impugns order dated 03.09.2018, whereby the original application filed by the petitioner has been dismissed by the Armed Forces Tribunal, Regional Bench Lucknow on the ground of delay.

2. Petitioner was enrolled in the Army on 25.04.1995 and he was discharged w.e.f. 30.09.2008 after putting over 13 years of service. Petitioner was given a show-cause notice dated 16.08.2008 as to why he should not be discharged from service under the provision of Army Rule 13(3) for having earned eight red ink entries and one black ink entry. Subsequently by order dated 19.09.2008, petitioner was discharged from service in terms of Army Rule 13(3) Item III(v). However, no action was taken by him till he filed



statutory complaint under Section 26 of the Army Act on 31.12.2015 which was dismissed by order dated 10.11.2016.

3. Thereafter, petitioner filed the subject Original Application before the Tribunal in the year 2017. The Tribunal by the impugned order has held that the cause of action arose on 19.09.2008 and he did not take any action till filing the statutory complaint on 31.12.2015. The Tribunal has noticed that the period for filing the statutory complaint is 90 days from the date of discharge. The Tribunal accordingly has held that there was gross delay in filing the statutory complaint and also approaching the Tribunal. The petitioner was discharged from service by order dated 19.09.2008 and for seven long years, no action was taken and, thereafter, statutory complaint was filed and subsequently, the original application was filed which has been dismissed on the ground of gross delay.

4. Even before us, there is an unexplained gross delay by the petitioner. The order impugned has been passed by the Tribunal on 03.09.2018 and subject petition has been filed on 01.05.2025 after nearly seven year of the order. The only explanation given in the petition for delay is that when the order was passed by the Tribunal on 03.09.2018, the order passed by Tribunal could be challenged before the Supreme Court only and due to paucity of fund it was not possible for the petitioner to challenge the order before the Supreme Court and recently petitioner learnt that the order could be challenged before this Court. Consequently, he has filed the subject petition.

4. We are not satisfied with the explanation given by the petitioner for



entertaining a petition after a lapse of over seven years of the dismissal by the Tribunal which also dismissed the petition on the ground that the petitioner had approached the Tribunal after a lapse of nearly nine years of the cause of action arising.

5. Consequently, we are not inclined to entertain the petition and reject the same solely on the ground of delay and latches.

**(SANJEEV SACHDEVA)**  
**CHIEF JUSTICE**

**(VINAY SARAF)**  
**JUDGE**

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