

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

I.C.A. No.386 of 2014
Masood Sharif Khan
Versus
Federation of Pakistan and others

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	31.03.2022	Malik Qamar Afzal, Advocate for the appellant. Mr. Arshid Mehmood Kiani, learned Deputy Attorney General.

Through the instant intra Court appeal, the appellant, Masood Sharif Khan, assails the order dated 27.05.2013 passed by the learned Judge-in-Chambers whereby writ petition No.2603/2014 filed by the appellant/petitioner, was dismissed in *limine*.

2. Learned counsel for the appellant submitted that the appellant could not have filed a representation to the appellate authority since he had been incarcerated; that although the appellant was a civil servant, this Court has wide jurisdiction under Article 199 of the Constitution to interfere with the notification whereby major penalty of dismissal from service was imposed on him; that the appellant had been acquitted from the charges of corruption by the Accountability Court; and that the gallantry award given to the appellant could not have been withdrawn without due process and the procedure prescribed in the Decorations Act, 1975. Learned counsel for the appellant prayed for the appeal to be allowed in terms of the relief sought therein.

3. We have heard the contentions of the learned counsel for the appellant and have perused the record with his able assistance.

4. The two essential grounds on which the said writ petition was dismissed were that the appellant had the alternative remedy of filing an

appeal before the Service Tribunal and that the writ petition suffered from *laches* of sixteen years.

5. The background facts are set out in paragraph 2 of the impugned order dated 27.05.2013 and need not be reiterated.

6. It is an admitted position that on account of being an official of the Intelligence Bureau, the appellant was admittedly a civil servant. Vide notification dated 09.07.1997 issued by the Establishment Division, major penalty of dismissal from service had been imposed on the appellant. The Intelligence Bureau had also issued a notification to the said effect on 10.07.1997. The said notification shows that disciplinary proceedings had been initiated against the appellant under the provisions of the Government Servants (Efficiency and Discipline) Rules, 1973. Charges of misconduct and corruption had been levelled against him and he had been found guilty. Prior to initiation of the disciplinary proceedings against the appellant, he had been issued show cause notice dated 15.05.1997 along with statement of allegations.

7. There is nothing on the record to show that the appellant either filed a representation before the appellate authority or an appeal before the Service Tribunal against the imposition of a major penalty on him. Given the fact that the appellant had the alternative remedy of filing an appeal under the law, we find ourselves in agreement with the learned Judge-in-Chambers for dismissing the writ petition as not maintainable.

8. Even otherwise no explanation was given by the learned counsel for the appellant for the inordinate delay of sixteen years in filing the writ petition. The major penalty of dismissal from service was imposed on the appellant on

09.07.1997 whereas he filed the writ petition on 23.05.2014 *i.e.*, with a delay of sixteen years.

9. As regards the withdrawal of the decoration of Hilal-i-Shujaat awarded to the appellant on 14.08.1996, learned counsel for the appellant could not point out to any document on the record to show that the said decoration had been withdrawn from the appellant.

10. In view of the above, the instant appeal is dismissed in limine.

(ARBAB MUHAMMAD TAHIR)
JUDGE

(MIANGUL HASSAN AURANGZEB)
JUDGE

Sultan*