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

+ **W.P.(C) 12730/2024**

PRATAP SINGH

.....Petitioner

Through: Mr. Subhash Chandran Kumar and
Ms. Krishna, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Avtaar Singh Deol and Mr.
Kalyan Babu Singh, Advs. with Dy.
JAG Devender Singh, ITBP

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

% **11.09.2024**

CM APPL. 53066/2024—Exp.

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. By way of the present petition under Article 226 of the Constitution of India, the petitioner, who was serving as a Havaldar in the Indo Tibetan Border Police (ITBP), has approached this Court assailing the order dated 22.04.1997 by which he was compulsory retired from the service on account of his having overstayed his leave by one day.
4. Learned counsel for the petitioner submits that the delay in approaching this Court is *bona fide* and due to unavoidable reasons. The



petitioner, he submits, had approached a counsel in 1997 itself and handed over all the original documents along with the **fees deposited** by him. The said counsel, however, kept assuring the petitioner that he had already filed a petition on his behalf before the Court. However, it is only in 2016 that the petitioner realised that no petition had been filed on his behalf. It is then that he, filed complaints with the Bar Council of India as also Bar Council of Delhi for initiating appropriate action against the said counsel. However, till date no action has been taken against the said counsel. He, therefore, prays that in these peculiar circumstances, the delay on the part of the petitioner in approaching the Court be condoned.

5. Learned counsel for the respondents who appears on advance notice opposes the petition not only on the ground of delay and laches as also for want of territorial jurisdiction.

6. In the light of the aforesaid, it would appropriate to first ascertain whether the record of the proceedings pursuant whereto the impugned penalty was imposed on the petitioner is still available with the respondents. Learned counsel for the respondents prays for time to obtain instructions in this regard.

7. At request, list on 16.12.2024.

REKHA PALLI, J

SHALINDER KAUR, J

SEPTEMBER 11, 2024
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