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

+ LPA 61/2016 & C.M.Nos.3159-3161/2016

SUBHASH CHANDRA Appellant

Through: Mr.Ravindra S. Garia and
Mr.Abhinav S.Raghuvanshi,
Advocates

versus

HINDUSTAN PETROLEUM CORPORATION LTD. Respondent

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

O R D E R

% **29.01.2016**

C.M.No.3161/2016 (for condonation of delay)

For the reasons mentioned in the application, the delay in filing the appeal is condoned.

Application stands disposed of.

C.M.No.3160/2016 (for exemption)

Exemption is allowed subject to just exceptions.

Application stands disposed of.

LPA 61/2016 & C.M.No.3159/2016 (for interim relief)

1. The appellant is aggrieved by the order dated 07.10.2015 whereby his claim for entitlement of compassionate appointment with the respondent corporation as well as for proper direction, on the basis of settlement dated 13.04.1983 was rejected. The appellant's father who was working in the respondent corporation expired on 19.12.2003. At that time he was working as class IV employee. The appellant was employed on casual basis as a Clerk from 17.07.2004

till 31.12.2008. He approached this court claiming eligibility and entitlement to compassionate appointment on the basis of clause 24.1 of the Settlement dated 13.04.1983.

2. Learned Single Judge by the impugned order inter alia held as follows:

5. Having heard the learned counsel for the petitioner, there is no dispute that the Settlement contemplates compassionate appointment on the death or permanent disablement of the employee in terms of Clause 24.1 of the Settlement. The petitioner was given employment in the year 2004 on a clerical post, on which post he worked till 2008. The petitioner did not challenge his appointment on casual basis being contrary to the settlement of the year 1983. He continued to work till 2008. The employment was not continued further and even thereafter the petitioner did not approach an appropriate Court for appropriate relief. Eleven/seven years have elapsed thereafter. That apart, twelve years after the death of his father, he can't seek benefit of the aforesaid Settlement for compassionate appointment, which is primarily to help the dependants of the employee dying in harness and leaving his family without any means of livelihood. In other words, to enable the family to tide over the sudden crisis. The cause of action, if any, had arisen in the year 2003-04 and in the year 2008. No explanation has been given in the writ petition for the delay. Even if the respondent Corporation intends to make a fresh appointment, the petitioner was at liberty to apply against the same, subject to fulfilling the eligibility. Having not applied, no directions can be given.

3. It is contended that the learned Single Judge fell into error in foreclosing the appellant's right to seek employment by holding that the appellant had delayed in approaching the court despite him having claimed benefit of four years between 2004 to 2008. He consequently urged that in term of clause 24.1, the entitlement to be considered for compassionate appointment could not have been foreclosed since it

actually arose after the employment spell ended in 2008. Counsel highlighted that the respondent corporation was approached several times and that the appellant was assured on several occasions that his case would be considered sympathetically.

4. This court has considered the submissions. Eligibility for consideration for compassionate appointment is one thing; claiming for entitlement is another. The facts clearly show that between 2004 to 2008 the appellant was employed on casual basis. However, at that time neither contemporaneously nor even immediately thereafter did he seek regularisation or consideration of that employment as a compassionate employment. He appears to have approached this Court highly belatedly – at least 7-8 years after his spell of employment ended and 12 years after his father's death. Compassionate appointment is made to tide over financial crises that befall a family of a serving employee on his death/permanent disablement.

5. In these circumstances, the court is of the opinion that no interference is called for with the impugned judgment. The appeal along with pending application is accordingly dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

JANUARY 29, 2016/rb