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

+ W.P.(C) 3185/2016 & C.M.No.13658/2016

M/S. DEV ASSOCIATES

..... Petitioner

Through Mr.Puneet Mittal with Ms.Vasudha
Bajaj, Advocates.

versus

PROTECTOR GENERAL OF EMIGRANTS

..... Respondent

Through Ms.Shiva Lakshmi, CGSC with
Mr.Udit Grover, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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18.04.2016

Present writ petition has been filed challenging the order dated 4th September, 2015 passed by the Appellate Authority, Ministry of Overseas Indian Affairs, whereby petitioner's appeal for renewal of registration certificate was rejected on the ground of delay of more than one year in submission of renewal application.

Learned counsel for petitioner states that petitioner's registration certificate had expired on 22nd March, 2013, but the application for renewal was filed on 6th January, 2014 as the proprietor of petitioner firm was undergoing medical treatment. He further states that the delay in filing the application was not deliberate but was only due to continuous medical treatment. In support of his submission, learned counsel for petitioner relies upon ***J.M. International vs. Union of India & Anr. 183 (2011)*** DLT, wherein it has been held as under:-

“10. It thus appears that for the delay if any, it is the

certificate holder himself / herself who suffers inasmuch as upon the certificate lapsing, he would not be able to carry on the business. No prejudice is found to be caused to the respondents or to the applicants for overseas employment for the reason of delay in applying for renewal. It is also not as if the respondents in such a case would be required to process the application before the three months time elapses. In fact upon the application being filed belatedly, the applicant / certificate holder can be imposed with further penalties for any inconvenience which may be caused to the department in this regard. Similarly, if the bank guarantee earlier furnished has lapsed or any other expenses are required to be incurred in processing the application, the same can also be demanded from the applicant.

11. I have in this regard also enquired as to why the petitioner cannot apply for a fresh certificate. As per Section 14(6) of the Act, only in the event of cancellation of a certificate under Section 14(1), is the certificate holder prohibited from applying again, for a period of two years from such cancellation. However, such bar would not apply in the case of a certificate holder who allows his certificate to lapse.

12. The counsel for the petitioner has however stated that the procedure required to be followed on a fresh application would be much longer than the procedure for renewal.

13. It is up to the registering authority to, if of the opinion that owing to the certificate holder having made his application for renewal belatedly and / or having allowed his certificate to lapse and / or sufficiently long time having elapsed, the procedure as in case of a fresh application is required to be followed, to follow the said procedure even while renewing the application, to ensure that all the safeguards which the certificate holder is to observe are observed.

14. Undoubtedly, the medical certificate produced by the petitioner is of a general nature and does not show that he was totally incapacitated from doing anything or that he had shut down his business also at that time. However, it is also not the finding that the medical certificate is false and / or the petitioner was not indisposed. An illness can certainly affect the efficiency of a person.

15. It is therefore deemed expedient to set aside the orders insofar as rejecting the application for renewal for the reason

of the petitioner having not applied therefor within the prescribed time and to direct the respondents to deal with the application of the petitioner on merits and in accordance with the observations hereinabove. The petition is accordingly allowed. The orders aforesaid are set aside. The delay in applying for renewal is condoned. The respondents are now directed to decide the application of the petitioner for renewal on merits.

No order as to costs

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Though, learned counsel for the respondent, who appears on advance notice, states that the medical certificates relied upon by the petitioner are of a subsequent date, yet this Court finds that they pertain to the relevant period.

Keeping in view the aforesaid, the impugned orders insofar as they reject the petitioner’s application for renewal are set aside and the respondent is directed to deal with the petitioner’s application on merits, in accordance with the law.

Accordingly, the petition stands allowed in the aforesaid terms.

MANMOHAN, J

APRIL 18, 2016

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