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

+ W.P.(C) 11590/2016

SANJAY & ORS

..... Petitioners

Through: Mr. U.Srivastava, Advocate

versus

GNCT OF DELHI AND ANR

..... Respondents

Through: Ms. Isha Khanna, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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09.12.2016

Six petitioners, in this writ petition, impugn the order dated 6.9.2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi , whereby their MA No.1856/2016 for restoration of OA No.2310/2005 was dismissed.

The petitioners herein had filed also an application for condonation of delay, which was not numbered. The impugned order, dismissing MA No.1856/2015 records that the petitioners have not been able to show good and sufficient ground for condonation of delay in moving the restoration application.

Having heard the learned counsel for the petitioners, we are inclined to agree with the findings recorded by the Tribunal in its order dated 6.9.2016, dismissing MA No.1856/2016.

OA No.2310/2005 was filed, challenging the selections to the posts of Fire Operators vide selection list/order dated 14.2.2003. The OA had a chequered history. However, it is apparent that the petitioners herein stopped attending the proceedings and remained unrepresented in OA No.2310/2005 after 22.3.2013. This fact was initially not noticed, as there were similar OAs preferred by third persons. However, this fact came to the notice of the Tribunal on 10.4.2015, when OA No.2310./2005 was dismissed for non-prosecution recording as under:

“The OA had come up for hearing before the Tribunal in the year 2006 and was dismissed in terms of the order dated 18.8.2006. 2. When Hon’ble Delhi High Court passed order dated 29.10.2010 in W.P. [C] No.7553/2007, the Registry started listing the present OA again. Shri Piyush Gaur proxy for Shri Arun Bhardwaj who is present in the connected matter i.e. OA 426/2005 (Manoj Kumar Vs. GNCTD) submitted that he is not representing the applicant in the present OA. He also stated that the applicants in the present OA were never represented by Shri Arun Bhardwaj and earlier he was represented by Mr. U. Srivastava, Advocate. It is seen that that

after the order dated 29.10.2010 was passed by the Hon'ble High Court on 13.3.2013, Shri U. Srivastava appeared for the applicants and thereafter on 22.3.2013 Shri M.S. Reen proxy for Shri Arun Bhardwaj represented them. Today, Shri Piyush Gaur proxy for Shri Arun Bhardwaj in OA No.426/2005 categorically submitted that Shri Arun Bhardwaj was never instructed to represent the applicants in OA No.2310/2005 i.e. the present OA. (MA No.2237/2015 & MA No.2238/2015 with MA No.1856/2015) (9) 3. In view of submission put forth by the proxy counsel it appears that the applicants herein have not been represented after 22.3.2013 and it was only because the present OA was listed along with OA No.426/2005, in view of the common order passed in three connects OAs, the presence of Mr. Arun Bhardwaj, advocate and his proxy counsels could be shown as counsel for the applicants in this OA also. 4. In the circumstances, the OA stands dismissed for default and for non-prosecution.”

The petitioners herein, after a delay of about 412 days, filed an application for restoration and recall of the order dated 11.3.2014, along with an application for condonation of delay. The reasons given in the application was that there was a communication gap and confusion, therefore, the matter was dismissed for non-prosecution on 11.3.2014. It is also accepted that the counsel, who was earlier appearing for the petitioners,

was no longer engaged by them.

The only cogent reason and ground discernible from the application, MA No.1856/2015 and unnumbered application for condonation of delay is that the connected OA No.426/2005, filed by one Manoj Kumar, was decided in his favour on 28.10.2014. It was pleaded that this fact came to the knowledge of the petitioners on 10.4.2015 and then only they had inspected the file and moved the applications. To us, it is clear that the petitioners had completely lost interest relating to selection made in the year 2003. Possibly, they felt that they were not entitled to succeed. Their interest revived after OA No.426/2005 was decided on 28.10.2014. This, in our opinion, would not be a just and fair ground to condone the delay and recall the order dated 11.3.2014.

Learned counsel for the petitioners has pointed out that the applications filed by the impleaders were dismissed by the Tribunal while deciding OA No.426/2005, decided on 28.10.2014. The said impleaders had filed WP(C) No.8340/2015, titled **Satyavir & Anr. v. Chief Secretary, GNCT and Ors.** before this Court. The High Court has permitted the said impleaders to file an OA before the Tribunal. This order keeps all legal issues open. According to us, the said order would not justify issue of

notice in the present writ petition. Selection, as noticed above, relates to the year 2003.

The writ petition is accordingly dismissed, with no order as to costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

DECEMBER 09, 2016

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