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

+ W.P.(C) 11415/2015

VIBHASH JANA

..... Petitioner

Through: Mr. Vinay Sabharwal, Advocate

versus

M/S JAYA SHREE INSULATORS

..... Respondent

Through: Nemo

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

% **21.10.2016**

REV. PET.132/2016 in W.P.(C) 11415/2015

Upon hearing, I do not find any ground to review the order of 11th December, 2015 vide which main writ petition was dismissed *in limine* as the necessary averments on the basis of which the review petition has been filed are not there in the writ petition.

Learned counsel for petitioner/reviewist submits that on account of poor drafting of the writ, a party should not be made to suffer and the review of the order of 11th December, 2015 deserves to be confined to the prayer seeking withdrawal of the writ with permission to file fresh one as it is stated that employment of appellant was not only for the guest house, but was with respondent as a driver and he was not to be necessarily posted at the guest house.

Regarding the delay of nearly five years, it is submitted that petitioner/reviewist is now able to explain the delay and so, an opportunity ought to be granted to petitioner to do so as it is a question of

petitioner's livelihood. It is submitted that petitioner is unemployed and is unable to support his family and so, by taking a lenient view, the review be allowed to the aforesaid limited extent in the facts and circumstances of this case.

Though no ground to review the order of 11th December, 2015 on the plea taken in review petition is made out, but while taking into consideration the peculiarity of this case and the fact that petitioner is unemployed and has a family to support, lenient view is taken and the review is allowed only to the extent of recalling the order of 11th December, 2015 to enable petitioner to withdraw the main writ petition with permission to file fresh one to assail the Award of 10th August, 2010. It is clarified that as and when fresh writ petition is filed, the plea of delay and laches would not stand in the way of petitioner in view of the filing of the present writ petition. This review is accordingly disposed of with liberty as aforesaid.

W.P.(C) 11415/2015

In view of the orders passed above in the Review Petition, the order of 11th December, 2015 is recalled to the extent of permitting petitioner to withdraw the writ petition while granting permission to him to file fresh writ petition within six weeks from today to assail the Award of 10th August, 2010 afresh.

The writ petition is accordingly dismissed as withdrawn with liberty as aforesaid.

SUNIL GAUR, J

OCTOBER 21, 2016

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