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

+ **W.P.(C) 2317/2017**

UNION OF INDIA AND ORS. Petitioners

Through Mr. Amit Anand, Advocate

versus

RATNO

..... Respondent

Through None

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **15.03.2017**

CM No. 9936/2017 (U/S 151 CPC)

This is an application for condonation of delay of 40 days in refiling the writ petition.

For the reasons stated therein, the application is allowed and the delay in refiling the writ petition is condoned.

CM No. 9935/2017

Exemption allowed subject to all just exceptions.

The application stands disposed of .

W.P.(C) 2317/2017 and CM No. 9934/2017 (Stay)

The petitioners and its functionaries impugn the order dated 19.08.2016 whereby OA No. 1253/2013 filed by Ratno, widow of deceased Chhuttan has been allowed. The petitioners have also questioned the order dated 07.11.2016 whereby R.A. No. 233/2013 has been dismissed.

2. The question raised in the aforesaid O.A. relates to computation of family pension payable to Ratno.
3. Chhutan was engaged as casual labourer (CLTS) on daily basis and thereafter given temporary status w.e.f. 01.07.1996 in terms of the DOP&T OM No. 51016/2/90/Estt (C) dated 10.09.1993.
4. Chhutan had worked from 1965 till 30.09.2003.
5. The petitioners submit that they do not have records for the period from 1965 till 1980 and as per the Muster Roll Register, Chhutan was not engaged between 1982 and 1987.
6. This is the second round of litigation. Chhutan had filed O.A. No. 798/2006 for the relief and benefits as were granted in O.A. No. 427/2004, *Mohamma Razak v. Union of India & Ors.*, vide order dated 07.12.2004. The Tribunal while allowing O.A. No. 798/2006 vide order dated 01.08.2006 held and observed that Chhutan was engaged as casual worker in 1965 and had retired on attaining the age of superannuation after 30 years of service.
7. The aforesaid factum is one of the reasons and grounds why W.P.(C) 1166/2007 filed by the Union of India challenging the order of the Tribunal dated 01.08.2006 was dismissed. This judgment specifically notes that Chhutan was engaged in the year 1965 and continued work till he had attained the age of superannuation on 30.09.2003.
8. The petitioners have themselves pleaded and accepted absence of records from 1965 to 1980. We do not think that the petitioner can now contest the factual finding for the period between 1965 to 1980 and then from 1982 and 1987, and that too after the death of Chhutan.

The respondent, a widow, would find it impossible to controvert and contest this plea at this stage. The earlier findings recorded in two judicial orders are to the contrary.

9. Keeping in view the reasoning given by the Tribunal and the aforesaid facts, we do not find any merit in the present writ petition. The same is dismissed. No costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MARCH 15, 2017

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