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

% **Date of Decision: 23rd February, 2017**

+ W.P.(C) 1052/2012

ISHWARI PRASAD Petitioner
Through: Mr. Amit Seth, Adv.

versus

THE MANAGEMENT OF
ASHOK HOTEL & ANR. Respondents
Through: Mr. Narendra Sharma, Adv.

JUDGMENT (ORAL)

1. The petitioner has challenged the award of the Industrial Tribunal whereby his claim for compassionate appointment was rejected.
2. The petitioner is the son of late Shree Ram who was working with the respondent as foreman and expired during his service on 12th November, 1993. The petitioner made a representation for compassionate appointment to the respondent on 10th December, 1993 which was rejected on 10th July, 1996 on the ground that his two brothers were already working.
3. The petitioner challenged the rejection order dated 10th March, 1996 by writ petition bearing W.P.(C) No.1614/1999 which was dismissed in default on 22nd September, 2003. The restoration application was dismissed by this Court on 30th September, 2003. The petitioner thereafter filed three more applications for restoration which

were dismissed on 12th November, 2003, 18th November, 2003 and 01st August, 2006. The last dismissal order dated 01st August, 2006 records that the petitioner was pursuing a stale claim. Para 3 of the order dated 01st August, 2006 is reproduced here under:-

“It has been explained to the petitioner that the petitioner cannot get any relief for the reason he is seeking to urge on a stale claim. Order dated 18.11.2003 records that claim of the petitioner for compassionate appointment was rejected on 10.3.1996 and the petition which was filed on 18.3.1999 was highly belated.”

4. The petitioner thereafter raised an industrial dispute which resulted in the award dated 14th July, 2009. The learned Tribunal held the petitioner's claim to be barred by delay and laches. Learned Tribunal also held that the petitioner was not entitled to appointment on compassionate grounds.

5. Learned counsel for the petitioner submits that the respondents has relied on a circular to reject the petitioner's claim on the ground that his two brothers were employed at the relevant time. It is further submitted that the said circular came into force in 2005.

6. Learned counsel for the respondents submit that the compassionate appointment cannot be claimed as matter of right. Since two sons of the deceased were already employed at the relevant time, there was no justification for the respondent to give a compassionate appointment to the petitioner. It is further submitted that the petitioner's claim was not maintainable after the dismissal of writ petition holding the claim to be stale. Learned counsel further submits that the petitioner admitted being employed before the

Industrial Tribunal. It is further submitted that more than twenty three years have passed after the death of the petitioner's father and petitioner is now more than 40 years old.

7. This Court is of the view that there is no infirmity in the decision taken by the respondent to reject the petitioner's claim on the ground that two sons of the deceased were gainfully employed at the relevant time. This Court agrees with the Industrial Tribunal that the petitioner is not entitled to the compassionate appointment. That apart, the petitioner challenged the rejection of his claim before this Court by writ petition which was dismissed and the successive restoration applications were also dismissed observing that the petitioner was pursuing a stale claim.

8. There is no merit in this writ petition, which is hereby dismissed.

FEBRUARY 23, 2017

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J.R. MIDHA, J.