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

+ LPA 361/2017

SUKHRAM AND ORS

..... Appellant

Through: Mr D.B. Yadav and Mr D.S. Yadav,
Advs.

versus

M/S GUPTAJI TENT HOUSE AND ANR

..... Respondent

Through: Mr Sanjoy Ghose, Additional Standing
Counsel, GNCTD for respondent No.2

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **16.05.2017**

C.M. No. 18141/2017 and 18139/2017 (Exemption)

Exemption allowed, subject to all just exceptions.

Applications stand disposed of.

**LPA 361/2017 and C.M. No.18140/2017 (condonation of delay
1266 days in filing LPA)**

The appellant has preferred the aforesaid Letters Patent Appeal to assail the order dated 03.10.2013 passed by the learned Single Judge in W.P.(C) No. 8260/2011 along with an application to seek condonation of 1266 days delay.

By the said writ petition, the petitioners had assailed the award dated 15.10.2009 passed by the Labour Court No.IX, Karkardooma Courts, Delhi in ID No.173/1993, raised by the petitioners, claiming to be workmen of M/s Guptaji Tent House.

The Labour Court rejected the claim of the petitioners on the premise that the petitioners were not able to establish an employer-employee relationship between the respondent and the petitioners.

The learned Single Judge by the impugned order rejected the writ petition by observing that the parties had led their respective evidence before the Labour Court. The petitioners had failed to prove that the respondent No.1-M/s. Guptaji Tent House existed at the given address. The learned Single Judge referred to the settled proposition of law that the scope of interference by this Court in exercise of the power of judicial review under Article 226 of the Constitution of India is limited. This Court does not interfere with the award and take a view other than what has been taken by Industrial Adjudicator, on re-appreciation of evidence.

The submission of the learned counsel for the appellant is that the Labour Court failed to appreciate the evidence led before it. It also failed to take into consideration the Memorandum of Settlement dated 11.07.2003 entered into between the workman Ram Avadh and the respondent-Management, namely M/s Guptaji Tent House and M/s Guptaji Tent. By placing reliance on the said Memorandum of Settlement, the appellants claim that the same establishes the fact that there was an employer—employee relationship between the workmen and the Management.

So far as the delay in filing the present appeal is concerned, the only explanation furnished is that since the appellants are very poor and are unemployed, they could not arrange the funds to file the

present LPA within time.

The delay in filing the present LPA is immense. It is 1266 days. The bald assertion that the appellants are very poor persons is not sufficient to call for condonation of such immense delay in filing of the present appeal.

Even otherwise, on merits as well, we do not find any reason to interfere with the well-reasoned judgment of the learned Single Judge. A perusal of the impugned award shows that the learned Presiding Officer, Labour Court has considered and appreciated the evidence led by the parties to support the finding that the petitioners/workmen had failed to establish the employer—employee relationship between the parties. It is not pointed out that any material evidence—led before the Labour Court, was ignored, or any extraneous aspects/evidence were taken into account while returning the said findings. It was not for this Court in exercise of writ jurisdiction to re-appreciate the evidence.

Reliance placed on the Memorandum of Settlement dated 11.07.2003 entered into by Ram Avadh with M/s Guptaji Tent House and M/s Guptaji Tent is of no avail to the appellants. The said Settlement did not tantamount to an admission of any liability, or an admission of relationship of an employer or employee between the appellants on the one hand and Guptaji Tent House/Guptaji Tent on the other hand. The parties may enter into a settlement merely to buy peace and to avoid the harassment that they may be subjected to in litigation. No finding—of the existence of relationship of employer—employee, can be returned premised on a settlement

between the alleged management/employer and another person.

In these circumstances, we find no merit in the present appeal. The same is dismissed on account of it being barred by limitation, as well as on merits.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 16, 2017/bg