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

+ LPA 380/2017

R A S GOTHWAL

..... Appellant

Through: Mr. P.S. Nerwal, Advocate.

versus

MANAGING DIRECTOR, CRIS, NEW DELHI

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

19.05.2017

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C.M. No. 18893/2017

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

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The appellant has preferred the present Letters Patent Appeal to assail the judgment dated 23.03.2017 rendered by the learned Single Judge in W.P. (C.) No.6106/2016 preferred by the appellant.

The appellant had preferred the said writ petition to seek grant of Grade Pay of Rs.6600 instead of Grade Pay of Rs.5400 which was granted to him by the order of the respondent dated 15.07.2008. The appellant was

appointed as Assistant Manager with the respondent/ CRIS on 28.07.2004 on deputation from Bikaner Division of Northern Railways. He was thereafter regularly absorbed by the respondent vide order dated 15.07.2008. Upon his regularisation/ absorption, he was granted Grade Pay of Rs.5400, i.e. in the pay scale of Rs.8000–13500 (pre-revised), which was revised to Rs.15600 – 39100.

The petitioner does not dispute the fact that when he was absorbed in the respondent/ CRIS, he was granted Pay Band-3, i.e. Rs.15600 – 39100 with Grade Pay of Rs.5400 (revised) and he had consented for the same. His pay was fixed accordingly. The appellant sought the higher Grade Pay of Rs.6600 by making a representation on 16.06.2015 which was rejected by the respondent on 30.06.2015 taking note of consent granted by the appellant at the time of his permanent absorption on 15.07.2008. In view of the fact that the appellant was assailing fixation of the Grade Pay of Rs.5400 which took place on 15.07.2008 by filing the writ petition in the year 2016, the learned Single Judge rejected the same as being barred by delay & laches.

The submission of learned counsel for the appellant is that the appellant became aware of the fact that he had not been given the Grade Pay due to him at the time of his permanent absorption, i.e. Rs.6600, only in the year 2014 when Office Order No. 341/2014 was issued in respect of three officers, including the appellant. From the same, the appellant was able to find out that Virender Kumar was given the higher Grade Pay of Rs.6600 in 2009.

We cannot accept this submission of the appellant. The appellant, when he was permanently absorbed, was aware of the Grade Pay granted to

him. It was for the appellant, at the relevant stage itself, to raise the issue if he was aggrieved by allegedly wrong fixation of the Grade Pay. It has not been disclosed under what circumstances the Grade Pay of Virender Kumar was fixed as Rs.6600 in the same Pay Band, i.e. PB-3 when he was absorbed in 2009.

We enquired from learned counsel for the appellant whether the appellant was drawing any pension since he had retired from the service rendered with the respondent in the year 2015. Learned counsel states that the appellant is not drawing any pension. Since he is not drawing any pension from the respondent, the issue with regard to the alleged wrong fixation of the Grade Pay is a dead issue and does not survive, as it does not continue to impact him anymore.

We do not find any infirmity in the impugned judgement and there is no reason to interfere with the same.

Dismissed.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 19, 2017
B.S. Rohella