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

+ LPA 44/2017, CM Nos.2031/2017 and CM Nos.2033-34/2017, 18054/2017

DELHI TRANSPORT CORPORATION Appellant
Through : Mr. Uday N. Tiwary and Mr.
Sunil Kumar Jha, Advs.

versus

NARENDER KUMAR Respondent
Through : Mr. G.S. Charya, Adv.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% 12.05.2017

CM Nos.2033-34/2017

1. Issue notice.
2. Mr. G.S. Charya, Advocate accepts notice.
3. We have heard ld. counsel for the parties on this application.
4. We are satisfied that the appellant has adequately explained the circumstances in which the delay in filing and re-filing of the appeal has occasioned. The delay in filing and re-filing the appeal is condoned.
3. The applications are disposed of.

LPA No.44/2017

1. The appellant has assailed the order dated 22nd August, 2016 passed by the ld. Single Judge dismissing W.P.(C)No.3689/2001.

By this order, the Id. Single Judge had rejected the application of the DTC seeking condonation of delay of 543 days in filing an application for restoration of the writ petition.

2. It appears that two cross writ petitioners were filed, one by the DTC being W.P.(C) No.3689/2001 and the other petition being W.P.(C)No.7865/2005 by Narender Kumar (the respondent herein). These two writ petitions were related to allegations of misconduct levelled by the DTC against their employee Narender Kumar and proceedings arising as a consequence.

3. We are informed that in W.P.(C)No.7865/2005, the respondent workman had also filed an application seeking restoration of the writ petition as well as condonation of delay. Today, an order dated 1st May, 2017 has been filed before us whereby the Id. Single Judge has condoned the delay of 515 days in filing the accompanying application seeking restoration of the main petition and also accepted the prayer for restoration of the writ petition. The same order notes the consent of the respondent workman that he has no objection to the restoration of the present appellant's writ petition (W.P.(C)No.3689/2001).

4. It is submitted by Mr. G.S. Charya, Id. counsel for the respondent workman that as recorded in the order dated 1st May, 2017, he stands by the above statement and that he has no objection to the setting aside of the impugned order dated 22nd August, 2016 and restoration of the writ petition.

We accept the submission on behalf of the respondent.

5. Accordingly, it is directed as follows :

(i) The impugned order dated 22nd August, 2016 is hereby set aside and quashed.

(ii) CM No.30298/2016 which had been filed in the writ petition for restoration of W.P.(C)No.3689/2001 is allowed. W.P.(C)No.3689/2001 is restored to its original position and shall be listed with W.P.(C)No.7865/2005 in the “*Regular Category*” before the Id. Single Judge.

(iii) This appeal is allowed in the above terms.

CM No.18054/2017

6. This application has been filed by the respondent workman only on 6th May, 2017 under Section 17B of the Industrial Disputes Act, 1947. Inasmuch as the main appeal has been disposed of, the respondent is at liberty to make the prayer made herein before the Id. Single Judge.

The application is disposed of in the above terms.

CM No.2031/2017

7. In view of the orders passed in the main appeal, this application does not survive for adjudication and is hereby disposed of.

ACTING CHIEF JUSTICE

ANU MALHOTRA, J

MAY 12, 2017

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