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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 1768/2018 and CM APPL. Nos. 7334-35/2018
UNION OF INDIA AND ANR. Petitioners
Through: Mr. Ashok Singh, Advocate.

versus

CHARAN SINGH Respondent
Through: None.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER
% **26.02.2018**

1. The petitioners/Northern Railways are aggrieved by the judgment dated 08.04.2015, passed by the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No.1432/2010, filed by the respondent praying *inter alia* for issuing directions to declare the results of his screening which was held in the year 1985 and for regularization to the post of a *Safai Karamchari*, the results whereof were declared in the year 1987 and if the respondent had made the grade, he be regularized with effect from the year 1987 alongwith all consequential benefits, at par with those who were similarly placed as him. Additionally, the petitioners have assailed the order dated 3.11.2017 whereby the Tribunal has dismissed their review application (R.A No.253/2016) against the judgment dated 08.04.2015.

2. This is the second round of litigation between the parties. The

respondent had approached the Tribunal in the year 2010 by filing O.A. No.1432/2010 for the same relief. The said O.A. was however dismissed by the Tribunal vide order dated 03.12.2010, solely on the ground of delay and *laches*.

3. Aggrieved by the aforesaid dismissal order, the respondent had filed a writ petition in the High Court registered as W.P.(C) No.8031/2012, which was allowed by a Division Bench vide order dated 12.02.2013, observing *inter alia* that the Tribunal had erred in concluding that the respondent had belatedly sought legal recourse against his non-regularisation w.e.f. 14.09.1987, when other *Safai Karamcharies* were screened for purposes of regularization. Noting that the respondent was admittedly facing major departmental proceedings, which came to an end on 28.01.2008, when the said proceedings were finally dropped, the Division Bench held that it could not be stated that his claim was stale, when the respondent had approached the Tribunal for relief within a reasonable time therefrom.

4. Accordingly, the captioned petition was disposed of by setting aside the order dated 03.12.2010 passed by the Tribunal dismissing the respondents' O.A. and the order dated 23.02.2012 passed on the review application filed by the respondent. Resultantly, O.A. No.1432/2010 was restored by the High Court for a fresh adjudication on merits by the Tribunal.

5. Thereafter, the parties appeared before the Tribunal and after hearing them, the impugned judgment dated 08.04.2015 was passed, directing that the respondent be treated as a regular *Safai Karamchari* w.e.f. 14.09.1987, the date when he had been regularised in service, alongwith all consequential benefits. The petitioners were accordingly directed to pass

appropriate orders in respect of the respondent within a period of two months from the date of receipt of the said order.

6. The facts of the case are undisputed. The respondent had joined the petitioners as a casual labour on 01.07.1977. After rendering adequate service as a casual labourer, he was appointed as a *Safai Karamchari* on 22.01.1980. In the year 1984, the respondent was charge-sheeted and disciplinary proceedings were initiated against him which were finally dropped after a span of 24 years, on 29.01.2008.

7. During the pendency of the departmental proceedings, the respondent was screened in the year 1985 for being regularized to the subject post but his result was withheld as he had been facing disciplinary proceedings at that point in time and he was declared unsuitable for the very same reason in the year 1995, since the disciplinary proceedings were still pending against him.

8. In the year 2008, the petitioners had on their own regularized the respondent in service w.e.f. 04.08.1997. Not satisfied with the said order, the respondent had approached the Tribunal for seeking regularization at par with those who were similarly situated as him, w.e.f. 14.09.1987. The only reason that the petitioners had offered before the Tribunal for not regularizing the respondent w.e.f. 14.09.1987, was that disciplinary proceedings were pending against him with regard to bogus casual labours service cards, allegedly submitted by him. The said disciplinary proceedings were ultimately dropped in the year 2008 for the reason that the relevant records were not traceable in the Department. Taking into consideration the fact that the disciplinary proceedings initiated by the petitioners against the respondent in the year 1984 were dropped by them in the year 2008 and

further, noting that the respondent had rendered adequate service as a *Safai Karamchari* w.e.f. the year 1977 and he was due to be regularized in the year 1987, the Tribunal allowed the O.A. and the petitioners were directed to treat the respondent as a regular *Safai Karamchari* w.e.f. 14.09.1987, the date from which his juniors were regularised in service, with all consequential benefits.

9. The twin submission made by learned counsel for the petitioners is that the Tribunal failed to appreciate that the O.A. filed by the respondent in the year 2010 was patently barred by limitation and secondly, that the retrospective regularization of the respondent will have an adverse impact on the seniority of other employees.

10. We may note that the objection of delay and laches was taken by the petitioners even earlier and rejected outright by the Division Bench while allowing the writ petition filed by the respondent against the dismissal order passed by the Tribunal on 03.12.2010, by holding that “*the respondent could not have raised the claim for his regularization to be treated from an anterior date*” during the pendency of departmental proceedings, where a major penalty was contemplated against him. Only when the said proceedings were dropped by the Department in January, 2008, that the respondent had approached the Tribunal for claiming regularization on the same terms as granted to his juniors, w.e.f. 14.09.1987. Therefore, the plea of limitation taken in the present petition to assail the impugned order, has already been tested and turned down vide order dated 12.02.2013 passed in W.P.(C) No.8031/2012.

11. Coming to the second ground taken by the petitioners to assail the impugned judgment that the retrospective regularization of the respondent

will adversely affect the seniority of other employees, it is relevant to note that the respondent has prayed for grant of regularization with effect from the date when his juniors were regularized on the post of *Safai Karamchari* and in those circumstances, there is no question of adversely affecting the seniority of any other employee.

12. As a matter of fact, the moment the disciplinary proceedings against the respondent were dropped by the petitioners in January, 2008, they ought to have taken steps on their own to declare the results of the screening held in respect of the respondent in the year 1985, for regularization of his services w.e.f. the year 1987. But that did not happen. Instead, the petitioners regularized the services of the respondent on the basis of instructions issued on 04.08.1997, directing that “*all casual labours undergoing D&AR action or unauthorized absentees must be treated as regularized forthwith.*” The said instructions were issued a decade later, whereas the regularization of the respondent’s services ought to have taken place in the year 1987.

13. For the reasons noted hereinabove, we do not find any illegality or arbitrariness in the impugned judgment that warrants interference. We are also of the opinion that the present petition is highly belated as the impugned order was passed by the Tribunal on 08.04.2015 and the petitioners ought to have approached the Court within a reasonable time therefrom. Instead, they waited till the end of the year 2016, to file a review application that was ultimately dismissed in November, 2017. No explanation has been offered by the petitioners for the said delay. Nonetheless, we have examined the merits of the pleas taken by the petitioners and found them to be devoid of merits.

14. The petition is accordingly dismissed alongwith the pending applications.

HIMA KOHLI, J

PRATIBHA RANI, J

FEBRUARY 26, 2018

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