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

+ W.P.(C) 8755/2018 and CM APPL. Nos.33632-634/2018

SHRI SHRI CHAND Petitioner
Through: Mr. Fidel Sebastian, Advocate.

versus

DELHI TRANSPORT CORPORATION Respondent
Through: Ms. B.P. Sethi and Mr. M. Parija,
Advocates.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE REKHA PALLI

% **ORDER**
21.08.2018

1. The petitioner is aggrieved by the judgment dated 18.12.2017, passed by the Central Administrative Tribunal dismissing O.A. No.1783/2012, filed by him for grant of the benefits of the first ACP w.e.f. 2002 and the second ACP w.e.f. 2007, alongwith all consequential benefits, including arrears of pay and allowances, etc.

2. Under the impugned order, the Tribunal has dismissed O.A. filed by the petitioner on the ground that he has failed to explain the abnormal and unexplained delay in instituting the O.A. with regard to non-grant of the first ACP in the year 2005 and the second ACP in the year 2007, knowing very well that an adverse entry had been made in his ACR in the year 2001, which was duly communicated to him vide letter dated 27.02.2002 and it is

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only due to the aforesaid adverse entry in his ACR, that the petitioner was extended the benefits of the first ACP in the year 2005 instead of 2002 and similarly, for the very same reason, the second ACP was extended to him in the year 2010, w.e.f. 01.9.2008, instead of w.e.f. 2007.

3. Before us, a similar plea is taken by the counsel for the petitioner, to assail the impugned judgment. He submits that the Tribunal ought not to have dismissed the O.A. on the ground of limitation as there was no “*abnormal delay on the part of the petitioner in approaching the Court for relief.*” Learned counsel contends that the Tribunal failed to appreciate that this is a case of a continuing wrong and the petitioner could have approached the court for relief at any point in time.

4. On enquiring from learned counsel for the petitioner as to whether the petitioner took any steps to seek legal recourse against the adverse entry made in his ACR in the year 2001, which was duly communicated to him by the respondent/DTC vide letter dated 27.02.2002, he submits that the petitioner had started making representations to the Department from the year 2007 onwards. In other words, the petitioner had admittedly not submitted any representation to the Department, being aggrieved by the adverse entry made in his ACR in the year 2001, for six long years thereafter. Even after the issue had been flagged by the petitioner in the year 2007, he took another five years to file O.A. No.1783/2012, without any explanation offered for the said inordinate delay.

5. After referring to several decisions on the point of the delay including those in the cases of Union of India & Others Vs. M.K. Sarkar reported as (2010) 2 SCC 58, Esha Bhattachargee Vs. Managing Committee of W.P.(C) 8755/2018

Raghunathpur Nafar Academy and Others reported as **(2013) 12 SCC 649** and Chennai Metropolitan Water Supply and Sewerage Board and Others vs. T.T. Murali Babu reported as **(2014) 4 SCC 108**, the Tribunal opined that the claim of the petitioner for seeking grant of the first ACP w.e.f. 2002 and the second ACP w.e.f. 2007, for which he had elected to file an application only in April, 2012, was a stale and a dead claim and could not be entertained due to lapse of time.

6. We see no reason to differ with the view expressed by the Tribunal in the present case. The Tribunal cannot be faulted in observing that the petitioner had miserably failed to explain the abnormal delay of almost 11 years in seeking legal recourse, for challenging the adverse remarks in his ACR for the year 2001, which was the sole reason for non-grant of the first ACP to him in the year 2002, as a consequence whereof, his second ACP was also delayed.

7. The bald explanation sought to be offered by the counsel for the petitioner that the petitioner was not well versed with law and therefore he could not seek legal recourse within a reasonable time, cannot be accepted. In our view, once the petitioner was apprised about the adverse entry made in his ACR for the year 2001, vide letter dated 27.02.2002 addressed by the respondent/DTC, he was expected to seek legal recourse within a reasonable time therefrom, but having elected not to challenge the same at that stage, the decision to grant him the first ACP on 01.04.2005 and the second ACP (i.e., MACP) on 15.02.2010, w.e.f. 01.09.2008, cannot be faulted.

8. We are therefore of the opinion that the delay in the present case has remained unexplained and is sufficient to non-suit the petitioner. As a result,

the present petition is dismissed in *limine* alongwith the pending applications.

HIMA KOHLI, J

REKHA PALLI, J

AUGUST 21, 2018
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