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

+ W.P.(C) 13216/2018

UNION OF INDIA AND ORS.

..... Petitioners

Through: Mr. Ashok Singh and Mr. Om
Prakash, Advocates.

versus

VINAY KUMAR BAHL

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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07.12.2018

C.M. No. 51312/2018 & 51315/2018

Exemptions allowed, subject to all just exceptions. Applications stands disposed of.

C.M. No. 51313/2018

By this application the petitioner seeks condonation of delay of 38 days in re-filing the writ petition. Since no limitation is prescribed for filing a writ petition and principle of delay and laches applies, in our view, the application is misconceived and the same is disposed of accordingly.

W.P.(C) 13216/2018 & C.M. No. 51314/2018 (for stay)

The petitioners preferred the present writ petition to assail the order dated 10.01.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter 'Tribunal') in OA No.1522/2014.

The facts which are relevant for appreciation of the present case are that the respondent was appointed as A.S.M. on 18.05.1999 in the grade 330-560. In April, 1992 he was appointed to officiate as Deputy Chief Controller; on 10.01.2008 the respondent joined CRIS on deputation and was permanently absorbed in that organisation from 01.03.2012. After the respondent technically resigned on 29.02.2012, the petitioners sought to raise issue with regard to his unauthorised leave between 01.04.1995 and 01.09.1997. Consequently, the petitioners sought to fix the pension of the respondent by re-fixation of his pay and also sought to issue recovery orders against the respondent. In this background, he preferred the Original Application, which has been allowed by the Tribunal. The respondent places reliance on the letter dated 02.01.1971 issued by the Railway Board which states that scrutiny of leave record should be restricted to last three years of service in all cases. Since the service record of the respondent of the period between 01.04.1995 and 01.09.1997 was sought to be the basis for the action qua the respondent, the Tribunal had quashed the same. The submission of learned counsel for the petitioner is that the service record of the respondent was examined at the time of calculation of the retirement benefit. Consequently, taking into account the unauthorised leave that the respondent had availed during 01.04.1995 to 01.09.1997, his pay had to be re-fixed and his pension also had to be based on the basis of the revised pay. Having heard learned counsel and perused the record including the impugned order, we are of the view that there is no merit in this petition.

The petitioner is bound by its own Circular/letter dated 02.01.1971, taken note of by the Tribunal in the impugned order. A Government

servant cannot be hit with a bolt from the blue after his retirement, by being told that he was on unauthorised leave, more than a decade before his superannuation, and on that basis his salary cannot to be re-fixed, and his pension reduced. The petitioner has itself issued the letter dated 02.01.1971 to limit exercise of such power to stem arbitrariness and harassment of the retired employees. We therefore find no merit in this writ petition and the same is dismissed.

VIPIN SANGHI, J

A. K. CHAWLA, J

DECEMBER 07, 2018

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