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

+ **LPA 662/2017**

ASHWANI BHASIN

..... Appellant

Through: None.

versus

AIRPORT AUTHORITY OF INDIA & ORS

..... Respondents

Through: Mr. Digvijay Rai and Mr. Kustubh
Singh, Advocates for R-1 and R-
2/AAI.

Mr. Vivek Goyal, CGSC for R-13 and
R-4.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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15.11.2018

1. Despite a pass over none has appeared for the Appellant.

CM APPL. 36861/2018 (Exemption)

2. Exemption allowed, subject to all just exceptions.

CM APPL. 36860/2018 (delay)

3. The Court is not satisfied with the reasons given for the delay in filing the appeal. The application is accordingly dismissed.

LPA 662/2017

4. Nevertheless, the Court has examined the appeal on merits as well. This

appeal is directed against the judgment dated 17th May 2107 by the learned Single Judge rejecting the Appellant's plea for a direction to Respondents No. 1 and 2 to issue an appointment/joining letter in a suitable group D post with answering benefits.

5. The Appellant's mother was working as a Senior Superintendent (P). She expired after putting in 36 years of service. In October 2005 the Appellant applied for appointment on compassionate grounds in an appropriate post as per his qualifications. On 28th April 2010 an order had been issued recommending the Appellant and certain others for appointment. However the said order was not given effect to till 2014. It was in that background that the writ petition is filed.

6. In the reply to the writ petition, it is pointed out by the Respondents that the order dated 28th April 2010 in fact stood withdrawn by a subsequent order dated 10th May 2010. It was further pointed out that the Appellant in fact did not pursue the matter of his compassionate appointment and made only one representation on 3rd June 2014 which was four years after issuance of the order dated 28th April 2010.

7. A third factor noted by the learned Single Judge was that the family of the deceased employee, which included the Appellant, had received Rs. 10,23,278/- towards the emoluments and benefits due to the deceased. The fourth factor was that there was in fact no vacancies against which the Appellant could be accommodated. None of the 35 persons who had been recommended for appointment on compassionate basis, including the

Appellant, had been granted appointment.

8. In the present appeal, pursuant to the order passed by this Court, an additional affidavit has been filed by Respondent No. 1 clarifying that under the restructuring of cadres in 2008, the vacancies in the group D posts were being operated in the ratio of 40:30:30. There was no induction since 2009 in the officer cadre and none since 1996 in the House Keeping cadre. Appointments in group D were adjusted due to privatisation of the Airports at Delhi, Mumbai and Nagpur. It is categorically stated that at present there is no vacancy in group D in any region or the Corporate Headquarters. Rather there are surplus group D employees.

9. In the circumstances, the question of issuing any mandamus to the Respondents accommodate the Appellant in any group D post would not arise. The Court finds no error having been committed by the learned Single Judge in dismissing the Appellant's writ petition.

10. The appeal is accordingly dismissed both on delay as well as on merits.

S.MURALIDHAR, J

SANJEEV NARULA, J

NOVEMBER 15, 2018

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