$~26

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

\+ W.P.(C) 3359/2018

SH. TEK RAM SHEKHAR ..... Petitioner

Through: Mr.T.D.Yadav, Advocate

versus

UNION OF INDIA AND ORS. ..... Respondents

Through: Mr.Chiranjeev Kumar & Mr.Mukesh Sachdeva, Advocates for UOI/R-1
Mr.Sanjay Singh, Adv. for DDA/R-2
Ms.Mini Pushkara, Advocate for R-3 with Ms.Swagatha Bhuyan & Ms.Rekha Goswami, Advocates

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

ORDER

% **06.04.2018**

1. The present petition has been filed by the petitioner assailing an order dated 08.11.2017, passed by the Central Administrative Tribunal, dismissing O.A. No.3513/2014, filed by him for issuing directions to the respondent No.2/ Delhi Development Authority (DDA) to count the entire daily wage services rendered by him from 24.02.1973 to 17.05.1976.

2. The facts of the case are that the petitioner was originally appointed as a Mason on daily wages on Muster Roll with effect from 24.02.1973 in respondent No.2/DDA. Thereafter, he was appointed on the post of an Assistant Mason on regular establishment vide order dated 08.03.1982, but with effect from 18.05.1976.

3. Prior thereto, on 17.05.1976, the respondent No.2/DDA had issued a Memorandum offering a temporary post of Assistant Mason to the petitioner subject to the conditions stipulated therein. As per clause 2(c) of the said Memorandum, which relates to counting of past services, the petitioner was apprised in respect of his past service as under:-

> *"2(c) <u>Counting of past services:</u>*
>
> *Services rendered by Shri Tek Ram Shekhar S/o Shri Sultan Singh, on muster roll prior to his being brought on the work-charged establishment, will not be counted."*

4. No steps were admittedly taken by the petitioner to challenge the decision of the respondent No.2/DDA not to count the services rendered by him on Muster Roll. The petitioner superannuated on 30.09.2004 and after expiry of one decade reckoned therefrom, in the year 2014, he woke-up to the fact that he had a grievance against the non-counting of his past service rendered on Muster Roll and resultantly, approached the Tribunal for relief.

5. In the impugned judgment, the Tribunal has observed that the petitioner had accepted the terms and conditions of his appointment, mentioned in the Memorandum dated 17.05.1976 and therefore, he could not question the same, after a lapse of 37 years. Further, the Tribunal observed that reliance placed by the petitioner on Rule 14 of the CCS (Pension) Rules, 1972, which relates to "*Counting half of the service paid from contingencies with regular service*", is misplaced as he had failed to prove how did he satisfy the conditions of the eligibility laid down in the said Rule. As a result, the O.A. filed by the petitioner was dismissed. Aggrieved thereby, the present petition has been filed.

6. At the outset, we have called upon learned counsel for the petitioner to explain the gross delay and latches in seeking legal recourse, when the

cause of action had first arisen in his favour, as long back as in the year 1976, when the petitioner was informed by the respondent No.2/DDA that the past services rendered by him on Muster Roll, prior to his being brought on the work-charged establishment, would not be counted.

7. Learned counsel for the petitioner states that the petitioner had superannuated in the year 2004 and only thereafter did he decide to seek legal recourse. Even this submission is erroneous, for the reason it took another decade thereafter for the petitioner to approach the Tribunal for seeking relief.

8. In our opinion, the Original Application filed by the petitioner, before the Tribunal was hopelessly barred by delay and latches. It being a patently stale claim, we are inclined to concur with the view expressed by the Tribunal on the aspect of maintainability. Once the petition was found to be barred by delay and latches, there was no reason to return any findings on merits.

9. Accordingly, the petition is dismissed for the reasons noted above.

HIMA KOHLI, J.

PRATIBHA RANI, J.

APRIL 06, 2018

'hkaur/pg'