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

+ **W.P.(C) 335/2019**

SH. SITA RAM AND ANR.

..... Petitioners

Through: Mr. T.N. Tripathi and Mr. Prem
Chand, Advs.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Dev P. Bhardwaj, CGSC with
Mr. Jatin Teotia, Adv. for UOI.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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26.02.2019

CM APPL. 1587/2019

Exemption allowed, subject to all just exceptions.

W.P.(C) 335/2019

The present petition is directed against the order dated 01.10.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No.895/2015.

The petitioners preferred the said Original Application to seek direction to the respondent to consider their regularisation from the date of regularisation of their juniors in the light of the order passed by the Tribunal in OA No.466/2010 decided on 03.06.2011. The petitioners also sought ante-dating of their regularisation when their juniors were so regularised in January, 1993 with all consequential benefits.

The Tribunal has rejected the said Original Application on the ground that the claim was barred by limitation.

The petitioner No.1 and petitioner No.2 were appointed initially on temporary basis as Carpenters in July, 1986 and September, 1984, respectively. They were regularised on the said post in January, 2005 and February, 2002. The petitioners contended that their juniors, namely, one Badri Dass, who was initially appointed on temporary basis in March, 1987 was regularised in the year 1993 whereas, petitioner No.1 was regularised only in 2005 i.e. 12 years later. Likewise, one Mr. Liyakat Ali, junior to petitioner No.2 was initially appointed on temporary basis on 12.12.1985 and was regularised in the year 1994, whereas, the petitioner No.2 was regularised in February, 2002 i.e. after 8 years later.

The petitioners contended that other similarly situated persons, who were initially appointed on temporary basis to the post of Floor Assistant in the office of respondents, were subsequently regularised. However, they were not regularised from the date of regularisation of their juniors. Consequently, they filed OA No.466/2010 before the Tribunal, which was allowed by the Tribunal on 03.06.2011. The petitioners stated that when they came to know of the relief granted to the applicants in OA No.466/2010, they submitted their representations on 11.10.2014 and 15.10.2014 to seek regularisation from the date of regularisation of their juniors. However, their representations were rejected on 27.10.2014 on the ground that the petitioners have not obtained any judicial orders in their favour. The petitioners then preferred the Original Application in the year 2015.

The Tribunal, apart from finding that the Original Application was barred by limitation, has also observed that the petitioners have not annexed any seniority list to prove that the persons mentioned in the Original

Application were, in fact, junior to them.

The law of limitation bars the remedy in respect of the stale claim on the principle that it would not be fair to call upon the opposite party to meet the stale case, since, with the passage of time, it may not be even possible for the opposite party to meet the claim. The passage of time, itself, may handicap the opposite party in meeting the claim as, with such passage of time, the persons concerned dealing with the issue may not be available; the memory of persons may fade away, and, even the relevant records may not be available to belatedly justify actions taken years ago. It would not be appropriate to examine the fact situation from today's standpoint, which should have been examined contemporaneously when the cause of action arose, in the light of the facts and circumstances which were prevailing at the relevant point of time. Had the petitioners raised their grievance within the period of limitation, the respondents would not have been handicapped in dealing with their claims, and the respondents may have offered a complete and justified response to the relief sought against them. In our view, the respondents should not be called upon at this belated stage to meet the petitioners' claim. The Tribunal has in our view, therefore, rightly rejected the petitioners' claim as barred by limitation. Dismissed.

VIPIN SANGHI, J

A. K. CHAWLA, J

FEBRUARY 26, 2019

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