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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 301/2018
MEWA SINGH

..... Appellant

Through: Mr. Robin Bansal, Adv.

versus

UNION OF INDIA & ORS

..... Respondent

Through: Mr. Manish Mohan, CGSC with
Ms. Manisha Saroha, Adv. for UOI
Mr. Anjum Javed, ASC with
Mr. Devendra Kumar, Mr. Faran
Ahmed, Advs. for R-2 & R-3 with
Mr. Deependra (Patwari) Patel Nagar

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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27.02.2019

1. This Intra-Court appeal has been filed by the appellant, challenging the order dated January 31, 2018 passed by the learned Single Judge, dismissing the writ petition. The appellant had filed a writ petition in this Court, inter alia, challenging the communication dated August 16, 2016, rejecting his application for compensation, inter alia, on the ground that there is no mechanism to ascertain the extent of damage suffered by the appellant and hence, the claim cannot be processed.

2. The appellant claims to be a victim of 1984 riots which followed the assassination of Late Smt. Indira Gandhi, the then Prime Minister. It was the case of the appellant that at the material time, he was operating a factory of Auto Parts at Industrial Plot No. N-17A, Gali No. 9, Anand Parbat, Industrial Area, New Rohtak Road, New Delhi, under the name and style of M.S.Industries (Registered). The said premises was vandalized by a mob and the factory premises of the appellant was burnt and looted. On November 7, 1984, the appellant sent a written complaint to the SHO, Patel Nagar, New Delhi Police Station. It was the case of the appellant that he left the Delhi in the year 1985 since he did not have the means to recommence the business from the said premises. It was his case that he returned back to the Delhi in the year 2006 and filed an application dated September 22, 2006, for an ex gratia relief. It was urged on behalf of the appellant that the appellant was continuously following up with the authorities for processing his complaints. The learned Single Judge noted that no such averments have been made in the petition. According to the appellant, he again filed an application on November 25, 2013 with the Deputy Commissioner (West), Delhi for grant of ex gratia relief for damaged/uninsured commercial properties. It may be stated here that the

appellant had sought parity with the case of ***Harjeet Singh Vs. Union of India and Ors., W.P.(C) 8164/2007*** rendered on May 9, 2013, in support of his contention.

3. Suffice it to state, the learned Single Judge has distinguished the judgment of ***Harjeet Singh (supra)***. He dismissed the writ petition, by holding in paragraphs 8 to 10 as under:-

“ 8. There is no material on record to show that the petitioner had pursued with his application filed in September 2006. Plainly, if the ex gratia compensation was not disbursed to the petitioner pursuant to his application dated 22.09.2006, it was open for the petitioner to take appropriate steps at the material time. The impugned communication indicates that one of the principal reasons for rejecting the petitioner’s application is that currently there is no mechanism to ascertain the extent of damage suffered by the petitioner.

9. It is also indicated that had the petitioner been awarded any ex gratia payment in terms of the earlier guidelines, the petitioner could have applied for an enhanced compensation. Indisputably, the claim for an enhanced compensation could be awarded based on the loss ascertained earlier; however, at this stage, ascertaining the loss may not be possible.

10. The petition is plainly barred by laches, as it is no

longer feasible to assess the damage suffered by the petitioner. Thus, this Court finds no infirmity with the order passed by the respondent”.

4. Before us, it is the case of the learned counsel for the appellant, by drawing our attention to page 51 of the paper book, which is a part of the communication issued by the Ministry of Home Affairs dated January 16, 2006, relating to rehabilitation package for the victims of 1984 riots, which is reproduced as under, that in terms of clause (xii), the victims of the riots who migrated to Punjab from other riot affected States and are still living there, would be paid Rehabilitation Grant @ Rs. 2 lakh per family.

“(xii) Approximately 22,000 families of victims of the riots, which migrated to Punjab from other riot affected States and are still living there, would be paid Rehabilitation Grant @ Rs. 2 lakh per family. Similarly placed families of victims of the riots living in other States may also be given Rehabilitation Grant at the rate of Rs.2 lakh per family”

5. According to the learned counsel for the appellant, the amount of Rs. 2 lakhs was payable automatically without carrying out the process of determination of loss. He states that even the benefit of said clause, has not been given to the appellant.

6. During the course of arguments, the learned counsel for the appellant has submitted that he had filed on record of the Court, various documents to

show that the respondent does not dispute that the petitioner was one of the victims of 1984 riots.

7. On the other hand, Mr. Anjum Javed, Addl. Standing Counsel for the respondent supported the judgment of the learned Single Judge. According to him, the judgment need not require any interference.

8. Having heard the learned counsel for the parties, the plea as urged by the learned counsel for the appellant, by relying upon the letter dated January 16, 2006 issued by the Ministry of Home Affairs inasmuch as that a family of the riot victim is entitled to a compensation of Rs. 2 lakhs automatically, which compensation is different from the actual loss suffered by such a victim, is appealing. We find, the issue has not been considered by the learned Single Judge from this perspective. But at the same time, the payment of such a package pre-supposes the identification of the appellant as a victim of 1984 riots. In the peculiar facts of this case, this Court is of the view that since a limited issue has been raised by the learned counsel for the appellant, based on clause (xii), which has already been reproduced above, the judgment of the learned Single Judge need to be set aside and the matter is remanded back to the authority to consider the plea of the appellant for grant of Rs. 2 lakhs as rehabilitation package, by considering the case

afresh on the basis of documents filed by the appellant in this appeal, showing he was a victim of 1984 riots. This exercise shall be completed by the respondents within a period of four months from the date of receipt of the copy of this order. The appeal is disposed of. No costs.

CHIEF JUSTICE

V. KAMESWAR RAO, J

FEBRUARY 27, 2019/akb