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

+ **W.P.(C) 8896/2018 & CM APPL. 34224/2018**

ABHAY KUMAR SINHA AND ORS. Petitioners
Through **Mr. Kumar Rajesh Singh, Advocate.**

versus

UNION OF INDIA AND ORS. Respondents
Through **Mr. J. K. Singh, Standing Counsel**
with Mr. Madhulika, Adv. for R-1, 2
& 5.
Mr. Arun Bhardwaj, Mr. Nikhil
Bhardwaj and Mr. Shashwat Sharma,
Advocates for R-3 & 4.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% 09.01.2019

1. The petitioners have preferred the present petition to assail the order dated 11.04.2012 passed in OA No.1248/2010. The petitioners also assail the order passed in the Review Application No.234/2012 preferred by the petitioners in the Original Application, which, too, was rejected on 18.09.2017. Though this Court had raised the issue with regard to the delay and laches in the filing of the present writ petition in previous order, we find that since the review petition was dismissed on 18.09.2017 and the writ petition itself was preferred in July, 2018, there is not much delay and laches in preferring the present writ petition.

2. The grievance raised by the petitioners in the Original Application was with regard to the restructuring of the RDSO vide circular dated

04.12.2003. Prior to the issuance of said circular, the RDSO was an attached office of the Ministry of Railways. However, upon restructuring by the aforesaid circular, the status of RDSO was changed from an attached office of the Railway Ministry to that of a Zonal Railway. Consequently, the cadre in the RDSO was restructured.

3. The grievance of the petitioners was that he was posted as an Assistant (Group “B” Non-Gazetted) in the erstwhile dispensation i.e. prior to the restructuring. However, upon restructuring taking place in 2003, they were re-designated as Office Superintendant-II in the same pay-scale. Their grievance was that OS-II was a Group “C” post. We may observe that the respondents issued an order preserving the status of the petitioners as holding the Group “B” Post in personam. Admittedly, the petitioners’ pay was protected and they did not suffer either in terms of their pay, or in terms of their nature of responsibilities.

4. The Tribunal rejected the Original Application, *inter alia*, on the ground that though the restructuring had taken place vide circular dated 04.12.2003, the Original Application was preferred only in the year 2010 without sufficient justification explaining the said delay. The Tribunal has also observed that it is the prerogative of the Government to restructure an organisation and the same cannot be objected to by an employee. So far as the petitioners are concerned, they were in no manner put to any adversity or prejudice on account of the restructuring of the organisation.

5. Even before us, the petitioners are not able to explain the immense delay in preferring the Original Application. As rightly observed by the Tribunal, the cause of action arose upon the restructuring of the cadre vide circular dated 04.12.2003. The Original Application was clearly barred by

limitation. Even otherwise, the petitioners have not been able to articulate as to how they have been prejudiced by the said restructuring. The mere nomenclature assigned to a particular post i.e. Group “B” or Group “C” is not pertinent. What has to be seen is whether the reorganisation of the cadre has resulted in, either change of the pay-scale, or the nature of responsibilities assigned to a particular Officer to his detriment. That not being the position, in our view, there is no merit in the petitioners’ grievance.

6. Petition is accordingly dismissed.

VIPIN SANGHI, J

A. K. CHAWLA, J

JANUARY 09, 2019

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