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

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Date of Decision: 19th March, 2019

+ W.P.(C) 3097/2017 & CM APPLN. 13452/2017

19 **FOOD CORPORATION**

OF INDIA MAZDOOR UNION

..... Petitioner

Through: Mr. Rakesh Kumar, Advocate.

versus

FOOD CORPORATION OF INDIA & ORS.

..... Respondents

Through: Mr. Om Prakash and Mr. Pradeep
Kumar Tripathi, Advocates.

+ W.P.(C) 14007/2018 & CM APPLN. 54764-54766/2018

20 **DAMODAR YADAV**

..... Petitioner

Through: Mr. Rakesh Kumar, Advocate.

versus

FOOD CORPORATION OF INDIA AND ORS..... Respondents

Through: Mr. Om Prakash and Mr. Pradeep
Kumar Tripathi, Advocates.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGEMENT (ORAL)

W.P.(C) 3097/2017

1. The petitioner union is espousing the cause of 171 workers working with Ghevra Depot of respondent No.1. According to the petitioner, 617 workers were working with respondent No.1 on contract basis in 1987. In April, 1991, contract labour system was abolished. The agreement dated 12th

April, 1991 was executed by FCI Workers Union and the management of FCI in pursuance to which only 451 workers were departmentalized. According to the petitioner, the 451 workers were not departmentalized by FCI according to the seniority list but arbitrarily on pick and choose basis. The petitioner received the list of 451 workers through RTI in April, 2015. The petitioner is seeking regularization of 171 workers w.e.f. 1991 and payment of wages and other benefits w.e.f. 01st April, 1991 as well as compensation for the last 27 years. According to the petitioner, the original list prepared by the respondents contained the names of 171 workers. The petitioner is also seeking the direction to the appropriate authority to initiate civil and criminal proceedings against the respondent for not regularizing 171 workers according to their seniority.

2. This writ petition was taken up for preliminary hearing on admission on 11th April, 2017 when this Court directed Food Corporation of India to file a short affidavit which has been filed. The petitioner has filed the response to the affidavit of FCI.

3. According to the respondents, the writ petition is barred by laches having been filed after 27 years of the departmentalization of 451 workers in 1991. It is submitted that there was a settlement between FCI Workers Union and the management of FCI which is recorded in the minutes of meetings dated 26th/27th February, 1992 in pursuance to which FCI regularized 451 workers. It is submitted that the remaining 171 workers were inducted as DPS labour w.e.f. 01st January, 1994 in terms of memorandum of settlement dated 01st November, 1994. According to the respondents, the aforesaid settlements have binding statutory effect under Section 18 (1) of the Industrial Disputes Act, 1947. Copy of the minutes of

the meeting dated 26th/27th February, 1992 have been placed on record as *Annexure R-3* along with an affidavit of the respondents. It is submitted that the petitioner union was incorporated in the year 2002 and it has no personal knowledge of the factual position in the year 1991. Without prejudice, it is submitted that the petitioner has sought to raise industrial dispute for which the petitioner had legal remedies under the Industrial Disputes Act.

4. Learned counsel for the petitioner does not dispute that the petitioner union was incorporated in the year 2002. Learned counsel for the petitioner submits that the petitioner union is not aware of the settlement between FCI Workers Union and the management of FCI recorded in the minutes dated 26th/27th February, 1992. Learned counsel for the petitioner submits that FCI fabricated the seniority list in the year 1991 and is liable for civil and criminal action for forging and fabricating the list.

5. This Court is of the *prima facie* view that this writ petition is barred by delay and laches having been filed after more than 27 years from the date of departmentalization of 451 workers by FCI. The remaining 171 workers later on inducted under the DPS system in the year 1994. This writ petition is also not maintainable on the ground that the aggrieved workers have equally efficacious remedy under the Industrial Disputes Act which they have not availed. The writ petition is also not maintainable since disputed question of facts are involved in this petition which cannot be decided without recording of the evidence.

6. There is no merit in the petitioner's contention that the petitioner became aware of the correct facts in 2015 in reply to RTI application. The petitioner union came into existence in the year 2002 and has no personal knowledge of the facts in the year 1991. The petitioner is not even aware of

the settlement between FCI Workers Union and the management of FCI recorded in the minutes dated 26th/27th February, 1992.

7. This writ petition and pending applications are dismissed.

8. W.P.(C) 14007/2018 is also not maintainable and is dismissed. Pending applications are also dismissed.

MARCH 19, 2019
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J.R. MIDHA, J.

