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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 4060/2022

RAM KUMAR & ANR.

..... Petitioners

Through: Mr. Jawahar Raja and Ms. Meghna
De, Advs.

versus

DELHI JAL BOARD

..... Respondent

Through: Ms. Richa Kapoor, Ms. Shivani
Sharma, Ms. Saloni Jhahajan and Mr.
Prakhar Dixit, Advs.

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*Date of Decision: 20th September, 2022***CORAM:****HON'BLE MR. JUSTICE DINESH KUMAR SHARMA****J U D G M E N T****DINESH KUMAR SHARMA, J. (Oral)**

1. The present writ petition has been filed challenging the award dated 10th April, 2013 wherein the learned Labour Court rejected the prayer of the petitioners for 'equal pay for equal work' as well as for the regularization of the workmen in the proper pay scale from the date of their appointment.
2. Learned counsel for the petitioners submits that in fact earlier the petitioners were terminated against which an industrial dispute was raised and the industrial adjudicator vide order dated 31st May 2001 in I.D. No. 41/1993 had directed the respondent-management to



reinstate the petitioners-workmen with immediate effect along with 50% back wages.

3. Learned counsel for the petitioner submits that though the petitioners were reinstated but were not regularized in contravention of the law and the policy of the MCD. Aggrieved by the same, petitioners-workmen approached the Conciliation Officer but the conciliation proceedings did not fructified in any settlement and the dispute was referred to the Industrial Tribunal for adjudication. The learned Industrial Tribunal passed the impugned order dated 10th April, 2013.
4. Since the award is of 2013 and the present petition was filed in 2020, an affidavit of the petitioner explaining the delay has been placed on record wherein the petitioner as inter alia stated as under;

“4. That the day to day expenses of the deponent and his family members could not be sustained with the minimum wages that he was earning . That the deponent has to borrow money from friends and family for mere survival.

5. That the deponent has studied till Class 6 and has no knowledge about his legal rights and remedies and was not aware of the consequences of delay in approaching this Hon'ble Court.

Furthermore, the deponent is a lowly paid worker and did not have sufficient resources to pursue his legal rights and remedies against the Respondent who has unlimited resources at their disposal. That with great difficulty, the deponent has managed to muster resources to challenge the award dated 10.04.2013. Therefore, on account due to adverse circumstances, the deponent could not file the present writ petition immediately.”

5. Learned counsel for the petitioner submits that there is only delay of 6 years as the period after March, 2020 has to be excluded in view of



the judgment of the Supreme Court in *Suo Moto* Writ Petition bearing W.P.(C)3/2020. On the ground of the earlier delay, learned counsel places reliance upon *M/s Dehri Rohtas Light Railway Co. Ltd. v. District Board, Bhojpur* (1992) 2 SCC 598 and *Tukaram Kana Joshi v. Maharashtra Industrial Development Corp & Ors.* (2013) SCC 353. Learned counsel for the petitioner submits that in both of these cases, it has authoritatively been held that the applicability of the doctrine of the delay and laches has to be seen in the facts and circumstances of the each case. Learned counsel submits that the point to be seen is that whether any valuable rights which have accrued to others by reason of delay in invoking the jurisdiction is disturbed or not.

6. Learned counsel submits that in the present case, no valuable right has accrued to the Union of India and therefore, there should not be any impediment in condoning the delay and entertaining the present writ petition. Learned counsel has further submits that the law is well settled that if an order of reinstatement has been passed then the workmen is also entitled for continuity of the service. In this regard reference is placed upon in *Sanat Kumar Dwivedi v. Dhar Jila Sahakara Bhoomi Vikas Bank Maryadit & Ors.* (2001) 9 SCC 402, *Gurpreet Singh v. State of Punjab and Ors.* (2002) 2 SCC 492 and *Vasantika R. Dalla v. Baroda Municipal Corporation* 1993 (3) L.L.N. 1051.
7. Learned counsel further submits that in the impugned award, the regularization was declined on the ground that there was no policy of the MCD. However, this issue came up for discussion before the



Courts in *Om Prakash v. DJB* 2015 SCC online 12739 and *South Delhi Municipal Corporation v. Sripal Singh* in W.P.(C) 8447/2016 . In the said cases, it has been submitted, the policy was referred and relied upon.

8. Learned counsel for the respondent submits that in fact the policies that have been referred to are that of the MCD and has no relevance as the petitioners- workmen are employed with the Delhi Jal Board. In rebuttal, learned counsel for the petitioners submits that the Delhi Jal Board initially was a part of the MCD.
9. I have considered the submissions made by learned counsel for both the parties.
10. The present award under challenged is of 2013. Admittedly, the writ petition herein was filed in the year 2020. The petitioner is required to explain the delay which has happened prior to the order of the Supreme Court in *suo moto* writ petition no. 3/2020. It is a settled proposition that the matter of condonation of delay is one of discretion and has to be decided on the facts and circumstances of the case. The Court while considering the condonation of delay has to see whether there are sufficient causes for the delay caused. In filing of a writ petition, though there is no period of limitation, however, the Courts while entertaining the writ petition has to see whether it has been filed without any delay and latches. There cannot be any doubt to the proposition that the discretion for condonation of delay has to be exercised fairly and to promote the justice and not to defeat it.



11. In the present case, the parties are litigating since long. The earlier industrial dispute raised by the petitioners along with other workmen was decided in 2001. Thereafter, another industrial dispute was raised in 2010 which was adjudicated in April, 2013. It cannot be accepted that the petitioners were not aware of their legal rights. There is also no substance in the contention of the petitioners that they could not muster the resources to file the writ petition. The legal aid has always been available to the people eligible for the legal aid under the Legal Services Authorities Act, 1987.

12. The Courts are already over burdened and while admitting the writ petitions have to see that the petitioners come to the Court within a reasonable time or in case of any delay with any sufficient cause for delay. In case, the petitioners are allowed to invoke the jurisdiction of the Court at their leisure, it will only amount to further burdening the Courts.

13. I consider that in the present case there are no sufficient causes for entertaining the petition after delay of around 7 years.

14. In view of the circumstances, the writ petition stands dismissed.

DINESH KUMAR SHARMA, J

SEPTEMBER 20, 2022

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