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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 13th October, 2023***+ **L.P.A. 189/2022 & CM APPL. 31491/2022**

RAJA RAM

..... Appellant

Through: Mr.V.K.Sharma, Advocate with
appellant in person.

versus

THE CHAIRMAN NATIONAL INSURANCE CO.LTD. & ANR.

..... Respondent

Through: Mr.Pankaj Seth, Advocate for R-1.

CORAM:**HON'BLE MR. JUSTICE SURESH KUMAR KAIT****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)****CM APPL. 31491/2022 (for recall of the Order dated 14.03.2022)**

1. The Letters Patent Appeal was filed against the Order dated 12.07.2016 passed by the learned Single Judge whereby the Writ Petition filed by the appellant, was dismissed. During the pendency of the Appeal before this Court, it was dismissed as withdrawn vide Order dated 14.03.2022. Now, the present application has been filed on behalf of the appellant for recall of the Order dated 14.03.2022 *vide* which the Appeal was dismissed as withdrawn.

2. It is submitted by the learned counsel for the appellant that though he was present along with the appellant on the said date, but by withdrawal of the Appeal, his right to approach the Superior Court and to seek remedy has been foreclosed. It is therefore prayed that the Order dated 14.03.2022 may



be recalled and the Appeal may be heard on merits.

3. **Submissions heard and record perused.**

4. Though the Order dated 14.03.2022 clearly states that after addressing some arguments, learned counsel for the appellant has sought permission to withdraw the Appeal but considering the submissions made, the Order dated 14.03.2022 is recalled and the Appeal is restored.

5. The application is accordingly disposed of.

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6. The present Letters Patent Appeal has been preferred against the Order dated 12.07.2016 of the learned Single Judge dismissing the Writ Petition of the appellant seeking a Writ of Mandamus to direct the respondents to consider the regular services of the appellant from 1988 and to grant him arrears of pay.

7. The appellant filed a Writ Petition before the learned Single Judge seeking the following reliefs:-

*“a) issue of a writ for mandamus or any other appropriate writ thereby directing the respondents to consider the services of the petitioner from 1988 and fix the salary from 2000 as a subordinate staff/employee (4th grade) similarly working with the respondent no.1 since 1988 and also directed the respondents to pay arrears of pay to the petitioner;
b) pass such any other or further order which this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.”*

8. From the facts as narrated in the petition itself, learned Single Judge noted that the appellant was initially engaged as a part time Sweeper on 01.12.1988 and was being paid 20% of the salary of 4th Grade and with effect from 1991. His duty hours were enhanced from 2 hours to 3 hours



and he was being paid 30% of the salary of the 4th Grade employee. The appellant got appointment on regular basis as full time Safai Karamchari on 06.06.2000 and since then he was being paid regular salary/scale as a permanent employee. Therefore, his claim for regular pay-scale since 1988 when he was appointed as a part time Sweeper, was held to be not maintainable and the Writ Petition was dismissed. It was also observed that the Writ Petition had been filed in the year 2016 to claim fixation of salary from 1988 and thus, the petition was also held to be barred by delay and laches.

9. **Aggrieved, the present Appeal has been preferred by the appellant.**

10. **Submissions heard and record perused.**

11. The learned Single Judge has correctly held that the regular pay-scale could have been given to the appellant only from the date of his regular employment in the year 2000 and his claim for regular pay since 1988 when he was only a temporary employee, was not sustainable. We find no merit in the Appeal, which is hereby dismissed.

12. The pending applications, if any, also stand disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 13, 2023
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