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

Date of Decision: 10.05.2023

+ W.P.(C) 6092/2023 & CM APPL. 23904/2023 -Addl. doc.

SH DHARAM SINGH

..... Petitioner

Through: Ms. Meghna De & Ms. L. Gangmei,
Adv.

versus

THE DEPARTMENT OF FOREST AND WILDLIFE

..... Respondent

Through: Mr. Satyakam, Adv., ASC with Ms.
Pallavii Singh, Adv and Mr. Sarosh
Ali, Legal Consultant, Wild Life and
Forest Department.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The present petition filed by the workman seeks to assail the award dated 25.03.2022 passed by the learned Industrial Tribunal, Rouse Avenue, New Delhi in I.D. No. 24/2017. Vide the impugned award, the learned Tribunal has, after finding that the office memorandum dated 30.06.1987 issued by Government of India, on which reliance was being placed by the petitioner for seeking appointment on compassionate ground was not available on the record, disposed of the claim petition by directing the respondent/management to consider the petitioner's claim afresh and pass a speaking order thereon in accordance with rules, regulations and guidelines within one year.
2. Learned counsel for the petitioner submits that the impugned award is

liable to be set aside as the learned Tribunal ought not to have instead of deciding the matter on merit, once again relegated the petitioner to the respondent and that too without appreciating the fact that the petitioner's claim had been rejected by the respondent on 30.03.2016 itself. Furthermore, despite the time granted under the impugned award having expired, the respondent has, till date, not passed any fresh order in terms of the award, compelling the petitioner to approach this Court.

3. Issue notice. Mr. Satyakam accepts notice on behalf and is not in a position to deny that till date no fresh order in terms of the impugned award, has been passed by the respondent. He is also not in a position to deny that the petitioner's claim already stood rejected by the respondent on 30.03.2016. He further fairly submits that a copy of memorandum dated 30.06.1987 was available with the respondent and could have been easily filed before the learned Tribunal in case any direction in this regard was issued.
4. Having considered the submissions of the parties, I am inclined to accept the petitioner's plea that merely on account of non-availability of an office memorandum on record, the learned Tribunal could not have instead of directing the parties to make available the memorandum and thereafter deciding the petition on merits, once again relegated the petitioner to the respondent. In my view, the learned Tribunal could not have shirk from it's duty to decide the matter on merits only on account of the failure of the parties to place the office memorandum on record. If the office memorandum dated 30.06.1987 was not available on the record, it was always open for the

learned Tribunal to direct the parties to produce the same. The learned Tribunal however chose to simply remand the matter to the respondent for passing a fresh order on merits. This in my opinion was not at all permissible.

5. Furthermore, the respondent has till date not passed any order in terms of the impugned award. I am, therefore, of the considered opinion that the impugned order is not sustainable and the matter is required to be remanded to the learned Tribunal for a decision of the petitioner's claim petition on merits by directing the respondent to place on record a copy of the office memorandum dated 30.06.1987 referred to in the impugned award.
6. The impugned award is, accordingly, set aside and the matter is remanded back to the learned Tribunal for adjudication of the petitioner's claim in accordance with law. The respondent is directed to file a copy of the aforesaid office memorandum dated 30.06.1987 before the learned Tribunal within a period of two weeks.
7. Needless to state, while deciding the matter afresh, it will be open for the learned Tribunal to consider all the pleas of the parties as per law.
8. The matter be listed before the learned Industrial Tribunal-01, Rouse Avenue, New Delhi on 26.05.2023 for further proceedings in accordance with law.

(REKHA PALLI)
JUDGE

MAY 10, 2023

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