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

+ LPA 174/2024

DELHI TRANSPORT CORPORATION Appellant

Through: Ms. Leelawati Suman, Advocate.

versus

RAMANAND DECEASED THROUGH LRS. Respondent

Through:

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

28.02.2024

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CM APPL. 12131/2024 (Ex.)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CM APPL. 12134/2024 (Delay 5 days (RF))

3. This is an application filed by the petitioner seeking condonation of 5 days' delay in re-filing the present appeal.
4. The application is, for the reasons stated therein, allowed and consequently the delay of 5 days in re-filing the appeal stands condoned.
5. The application stands disposed of.

LPA 174/2024 AND CM APPL. 12132/2024 (Delay 102 days)

6. The present appeal under Clause X of the Letters Patent seeks to assail the order dated 25.08.2023 passed by the learned Single



Judge in W.P. (C) 11207/2015. Vide the impugned order, the learned Single Judge has rejected the appellant's challenge to the award dated 04.06.2015 passed by the learned Labour Court whereunder the appellant was directed to pay along with all consequential benefits, 50% back wages to the respondent from the date of his removal, i.e., 02.02.1996 till the date of his superannuation, i.e., 10.06.2014.

7. We find that the appeal is grossly barred by delay and the application seeking condonation of delay does not give any reason much less to say, any justifiable reason for seeking condonation of this inordinate delay.

8. However, despite this position that the appeal is liable to be rejected on delay itself, we have heard the learned counsel for the appellant on merits, who after some arguments, prays that directions under the impugned award for payment of interest @ 12% p.a. be set aside.

9. Despite advance service, none appears for the respondent. In these circumstances, we are taking up the appellant's plea for waiver of interest for consideration today itself without issuing any further notice to the respondent. Having perused the impugned order, we find that both the learned Labour Court and the learned Single Judge came to a conclusion that the deceased respondent, who was working as a conductor with the appellant was meted out discriminatory treatment *vis-a vis* the driver of the same bus, who was also alleged to have committed the same misconduct as the respondent, but was imposed a penalty of stoppage of one increment only as against the respondent who was dismissed from service. We are, therefore, of the considered



view that it would perhaps not be correct to hold that there was no misconduct on the part of the respondent. However, taking into account that the respondent has already expired, we are in agreement with the learned Single Judge that it would be against the interest of justice to remand the matter back to the learned Labour Court at this belated stage. Accordingly, though we are not inclined to interfere with the impugned order which directs the appellants to pay 50% back wages to the legal heirs of the respondent, we are inclined to accept the appellant's prayer for setting aside the award of interest.

10. In the light of the aforesaid, we set aside the directions under the impugned order to pay interest to the respondent. As prayed for, we grant six weeks' time to the appellant to pay the amount in terms of the impugned award. It is, however, made clear that if the amount is not paid within six weeks, the appellant would be liable to pay the interest @ 12% p.a from today.

11. The appeal along with all pending applications stands disposed of in the aforesaid terms.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

FEBRUARY 28, 2024

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