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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 9138/2018

BRIJ PAL SINGH DAGAR & ORS

..... Petitioners

Through: Mr. Soumo Palit, Adv.

Versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Jasbir Bidhuri, Mr. Akshit Gupta,
Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

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04.03.2024

CM APPL. 43487/2023 & CM APPL. 43527/2023 (impleadment).

1. These are the applications filed by one Ms. Sharda Malik seeking impleadment in the writ petition in her personal capacity as also as the legal representative of late Sh. Satpal Malik.
2. Despite opportunity, no reply thereto has been filed to these applications.
3. Today, learned counsel for the respondents fairly submits that without admitting the averments made in these applications, he has no objection to the applications being allowed.
4. In the light of the aforesaid, the applications are, for the reasons stated therein, allowed and Ms.Sharda Malik is impleaded as a co-petitioner.

W.P.(C) 9138/2018 & CM APPL. 35239/2018 -Delay 503 days.

5. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 02.09.2016 passed



by the learned Central Administrative Tribunal (Tribunal) in O.A. No. 4061/2011.

6. Vide the impugned order, the learned Tribunal while rejecting the O.A. filed by the petitioners on the ground of limitation, has simultaneously directed the respondents to examine the case of each of the petitioners/applicants separately and consider whether they were actually senior to the persons promoted to Grade-III under the BCR Scheme.
7. Learned counsel for the petitioners submits that the impugned order is wholly perverse as the learned Tribunal, despite accepting the petitioner's claim that their case was required to be considered in terms of the decision of the Apex Court dated 09.10.2022 in ***Union of India v. Leelamma Jacob, (2003) 12 SCC 280***, has rejected the OA on the ground of limitation. He contends that once it was found by the Tribunal that the petitioners were entitled to consideration of their case in terms of ***Leelamma Jacob (Supra)***, the Tribunal while directing the respondents to consider the case of each petitioner separately, ought to have issued time bound directions. He, therefore, prays that the impugned order be modified to this extent.
8. On the other hand, learned counsel for the respondent supports the impugned order and submits that the claim of the petitioners was rightly rejected by the learned Tribunal since it was clearly barred under Section 21 of the Administrative Tribunals Act, 1985. He, therefore, prays that the writ petition be dismissed.
9. Having perused the impugned order, we find that the learned Tribunal has on the one hand dismissed the O.A. preferred by the petitioners on



the ground of being barred by limitation, it has simultaneously issued positive directions to the respondents to examine the case of each of the applicant in the light of the observations as contained in the impugned order as also the decision of the Apex Court in ***Leelamma Jacob (Supra)***. We may note that the respondent has not assailed this direction issued by the learned Tribunal to consider the case of each petitioner separately.

10. We are, therefore, of the considered view that once the Tribunal itself has directed the respondents to take a considered decision in respect of each petitioner by examining their cases on the basis of the observations made in the impugned order as also the decision in ***Leelamma Jacob (Supra)***, the learned Tribunal ought to have issued directions to the respondents to pass an order after considering the cases of the petitioners in a time bound manner. We, therefore, dispose of the writ petition by directing the respondents to consider the case of each petitioner in terms of the directions issued in the impugned order, within a period of four weeks, by passing a reasoned and speaking order.

11. Needless to state, the said speaking orders will be communicated to the petitioners, who, if aggrieved, will be at liberty to assail the same as per law.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

MARCH 4, 2024

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