



2024 : DHC : 2388-DB



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

+ LPA 228/2024

+ **DELHI BUILDING AND OTHER CONSTRUCTION WORKERS
WELFARE BOARD** Appellant

Through: Mr.Harish Plaha, Advocate.

versus

GEETA

..... Respondent

Through: Mr.Chirayu Jain, Advocate.

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Date of Decision:19th March, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

C.M.No.16918/2024

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

LPA 228/2024 & C.M.Nos.16917/2024 & 16919/2024

3. Present letters patent appeal has been filed challenging the judgment dated 01st December, 2023 passed by a learned Single Judge of this Court in W.P. (C) 7768-2023, whereby the writ petition filed by the respondent, was allowed and the order dated 17th March, 2023 passed by Delhi Building & Other Construction Workers Welfare Board, denying the respondent the benefit of the death and funeral claims of her husband were set aside.

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4. Present appeal is accompanied by an application for condonation of delay of one hundred and four days (104) days on the ground that there was delay in obtaining instructions from the officers.
5. Learned counsel for the appellant states that there has been an oversimplified application of the principle that welfare legislation must facilitate the beneficiary. He states that the learned Single Judge has overlooked the specific statutory requirements and conditions precedent for the application of welfare measures.
6. He submits that the legal framework does not envisage renewal of registration after the death of the building worker. He thus contends that any renewal made posthumously is *void ab initio*. He points out that Section 17 of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (hereinafter referred to as the 'Act') mandates that the application for condonation of delay must originate from the building worker himself/herself and not from a spouse or other representative. He further points out that there is nothing on record to show that the deceased husband of the respondent had made attempts to renew his registration pursuant to the proviso of Section 17 of the Act during his lifetime. He states that the husband of the respondent was not entitled under Section 17 of the Act as he was not a live member for a period of three years and one month.
7. Learned counsel for the appellant lastly contends that the assertion that workers' memberships were not renewed in the years 2018 and 2019 is incorrect as 31875 and 35497 renewals were made in the year 2018 and 2019 respectively.



8. Having heard learned counsel for the appellant, this Court is of the opinion that the present matter involves the interpretation of Section 17 of the Act. The said Section is reproduced hereinbelow:-

“17. Effect of non-payment of contribution.- When a beneficiary has not paid his contribution under sub-section (1) of section 16 for a continuous period of not less than one year, he shall cease to be a beneficiary:

Provided that if the Secretary of the Board is satisfied that the non-payment of contribution was for a reasonable ground and that the building worker is willing to deposit the arrears, he may allow the building worker to deposit the contribution in arrears and on such deposit being made, the registration of building worker shall stand restored.”

9. This Court is of the view that Section 17 of the Act stipulates that a worker shall cease to be a beneficiary if he has not paid contribution for a continuous period of not less than one year. Proviso thereto provides that Secretary of the Board is empowered to restore the registration. A plain reading of the provision suggests that no limitation has been prescribed for renewal of membership. Therefore, the contention that the Secretary of the Board cannot renew registration as it has lapsed three years and one month ago is untenable.

10. At this stage, learned counsel for respondent states that respondent would make payment of arrears of contribution for the period 2018-2021 within four weeks.

11. Similarly, the contention that renewal can be made only by way of an application made by the beneficiary/worker alone is not tenable since the statutory provision has no restriction with respect to the person who can make such an application. In fact, the provision only contemplates payment of arrears and does not refer to any application to be made by the beneficiary or on behalf of the beneficiary.



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12. Further, this Court takes judicial notice of the fact that the registrations under the Act had gone down from around 5 lakhs to a few thousands due to the administrative hurdles faced by the beneficiaries for renewal of their membership during the period 2018-2020.

13. Therefore, the assertion that the respondent's husband could not renew his membership due to reasons beyond his control is plausible and the respondent/her husband cannot be held liable for non-renewal of membership.

14. Consequently, the present appeal and applications being bereft of merits are disposed of with a direction to the respondent to pay the arrears of contribution for the period 2018-2021 within four weeks.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

MARCH 19, 2024
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