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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 105/2022

SUSHANT

..... Appellant

Through: Mr. Parvinder Chauhan, Amicus
Curiae with appellant in person.

versus

THE DISTRICT AND SESSION JUDGE,(HQ)

..... Respondent

Through: Mr. N.K. Singh, Adv. for Mrs.
Avnish Ahlawat, SC, GNCTD.
Mr. Vardhman Kaushik, Adv. for R-
3.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

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16.04.2024

CM APPL. 7413/2022 -Delay 683 days.

1. This is an application preferred by the appellant seeking condonation of 683 days delay in filing the appeal.
2. Taking into account that the impugned order was passed on 30.01.2020 by this Court in W.P. (C) No. 2894/2019, soon whereafter the pandemic of Covid-19 had set in as also the fact that the period between 15.03.2020 and 28.02.2022 in terms of the orders passed by the Apex Court in *Suo Moto Writ Petition (Civil) No. 3/2020*, is required to be excluded for the purposes of computation of limitation, learned counsel for the respondent fairly does not oppose the present



application.

3. In the light of the aforesaid stand taken by the respondent, the application is, for the reason stated therein, allowed. Consequently the delay in filing the appeal stands condoned.
4. The application stands disposed of.

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5. On 03.05.2023, this Court, after considering the submissions of the learned Amicus Curiae, had granted time to the learned counsel for the respondent to file an additional affidavit to explain as to whether other employees identically placed as the appellant had along with antedated promotion, been granted back wages. After having sought time on three occasions over the course of a year, today, he submits that there is no requirement to file any additional affidavit as the appellant's plea that other similarly placed employees have been granted back wages alongwith antedated promotion to the post of Judicial Assistant, is correct. He hands over a tabular chart in Court showing the dates of promotion of other similarly placed employees including Sunil Chaurasia, Pradeep Kumar and Inderjeet Dabas who like the appellant, had initially been granted promotion on notional basis to the post of JA (Judicial Assistant), but were subsequently also granted back wages from the date of their promotion.
6. In the light of this stand taken by the learned counsel for the respondent, when it is clear that all identically placed employees as the appellant have been granted back wages from the date of their



promotion as JA, we are of the considered view that the appellant should also be granted the same benefit of back wages. At this stage we may also note that even as per para 7 of the impugned order itself, the learned Single Judge, while allowing the appellant's writ petition had observed that he was entitled to all consequential benefits.

7. For the aforesaid reasons, the appeal deserves to be allowed by modifying the impugned order to the extent it directs that the appellant be granted only notional promotion as JA w.e.f 11.09.2008. The impugned order is accordingly modified by directing the respondent to grant all benefits including back wages by treating the appellant's promotion as JA w.e.f 11.09.2008 as regular promotion. The arrears in terms of this order will be paid within eight weeks.
8. While disposing of the appeal in the aforesaid terms, this Court appreciates the assistance given by the learned Amicus Curiae in the matter.

REKHA PALLI, J

DR. SUDHIR KUMAR JAIN, J

APRIL 16, 2024
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