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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 369/2024, CM APPL. 27180/2024 –Delay 15 days & CM APPL. 27181/2024 -Delay 481 days (RF).

GIRISH CAHNDER PAL

..... Appellant

Through: Mr. Yugal Kishor Prasad, Adv.

versus

BANK OF INDIA AND ORS.

..... Respondent

Through:

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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08.05.2024

CM APPL. 27179/2024 -Ex. & CM APPL. 27182/2024 -LLOD.

1. Exemptions allowed, subject to all just exceptions.
2. The applications stand disposed of.

LPA 369/2024

3. The present appeal under Clause X of the Letters Patent seeks to assail the order dated 23.08.2022 passed by the learned Single Judge in Review Petition No. 200/2022. The said review petition was filed to seek review of an order dated 22.04.2015, vide which the writ petition filed by the appellant had been dismissed as withdrawn.
4. At the outset, we have put to learned counsel for the appellant as to how an appeal would be maintainable against a review order when the primary order dated 22.04.2015 has not been assailed. He has no satisfactory reply thereto but submits that since the appellant is a poor person, this lapse on his part be considered. Even though, we are not



inclined to accept this explanation, we have still heard learned counsel for the appellant on merit and are of the view that not only is the present appeal grossly barred by delay and laches, but is also liable to be dismissed on merits.

5. From the record, we also find that initially after the aforesaid writ petition filed by the appellant was on 22.04.2015 dismissed as not pressed, the appellant had filed an application for restoration, which application was dismissed on 01.05.2019. Being aggrieved thereby, the appellant had preferred LPA No. 79/2022 which was also dismissed on merits after noticing the fact that the father of the appellant had passed away 12 years ago. It would, therefore, be apposite to note hereinbelow the relevant extracts of the order passed in the said LPA on 15.07.2022:

“4. It is stated that on 22.04.2015, the learned Counsel for the Appellant argued the matter at length, however, for the reasons best known to the Appellant, he withdrew the said writ petition. Order dated 22.04.2015 reads as under:

“1. After arguments, the writ petition is not pressed on merits.

2. Petition is disposed of accordingly.”

5. In spite of the fact that the Appellant had withdrew W.P.(C) No.4997/20 14, he did not file a review petition. On the contrary, the Appellant filed an application for restoration in W.P.(C) No.4997/2014 on 05.04.2019. The said restoration application was filed with a delay of 1432 days. Though a submission has been made by the learned Counsel for the Appellant that a restoration application was filed by the Appellant in 20 16, however, there is nothing on record to substantiate his claim. The fact remains that



the restoration application was preferred by the Appellant with a delay of 1432 days.

6. It is also an undisputed fact that the father of the Appellant passed away on 10.01.2010 and the family of the deceased has survived for the last 12 years. The aim and objective for granting compassionate appointment is to provide immediate assistance to the family of the deceased employee. Otherwise also, once W.P.(C) No.4997/2014 was withdrawn on 22.04.2015 by the Appellant, without pressing the same on merits, a review application could have been filed by the Appellant and the restoration application filed by the Appellant was not maintainable.

7. In the concerned opinion of this Court, Order dated 01.05.2019, passed by the learned Single Judge of this Court, is justified in rejecting the restoration application of the Petitioner. Therefore, this Court does not find any reason to interfere with the said Order.”

6. In the light of the aforesaid, we are of the considered view that there is no merit in the appellant's prayer for compassionate appointment. The appeal being meritless is, with all pending applications, dismissed, both on the ground of delay as also on merits.

REKHA PALLI, J

SAURABH BANERJEE, J

MAY 8, 2024
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