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

+ **W.P.(C) 7512/2008**

BUDH RAM

.....Petitioner

Through: **Mr. Ankit Singh Sinsinwar, Advocate**
versus

DELHI JAL BOARD

.....Respondent

Through: **Ms. Malvi Balyan, Advocate for Ms. Sangeeta Bharti, Standing Counsel for Delhi Jal Board.**

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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03.09.2024

CM APPL. 29373/2023 & CM APPL. 31119/2023

1. CM APPL. 29373/2023 is filed by the son of Late Budh Ram, Petitioner in the present writ petition who expired on 25.07.2014 during the pendency of this petition followed by the demise of his wife on 14.02.2016. Applicant is stated to be the only legal heir of Late Budh Ram. Along with the application, CM APPL. 31119/2023 has been filed seeking condonation of delay of 4481 days in filing the application for substitution of legal heir.
2. Learned counsel submits that there is an inordinate delay in seeking substitution of the Petitioner but the delay is *bona fide* and beyond the control of the applicant. It is urged that this petition was filed by applicant's father in 2008. Notice was issued on 22.10.2008 and counter affidavit was filed on 21.05.2009. Thereafter, on 04.04.2011, 'Rule' was issued by the Court and the matter was directed to be listed in due course. In the meantime, applicant's father died on 25.07.2014 and subsequently, applicant's mother also passed away on 14.02.2016. This fact was brought



to the notice of the earlier counsel but as there was no date in the matter, applicant did not know that the counsel had not filed an application to bring him on record. Somewhere in July/August, 2022, applicant received a notice from the Court as no one had appeared for his father on 27.05.2022. After receipt of the notice when the applicant visited the office of the counsel, he was informed that he had also expired. The applicant, therefore, made efforts to engage another counsel and thereafter filed the present application. In a nutshell, the argument is that since the matter was in the regular list, applicant was unaware of the proceedings and more importantly, it was his father who had been pursuing the matter along with the counsel he had engaged, who too had passed away. In the interest of justice, it is submitted that the delay be condoned and applicant be substituted as a legal heir of Late Budh Ram as even otherwise the cause survives.

3. Learned counsel for the Respondent opposes the applications on the ground that the death certificate of the mother of the applicant has not been placed on record and moreover, it was the duty of the applicant to pursue the matter even if it was in the list of regular matters. The delay being inordinate should not be condoned, is the submission made.

4. Having heard the learned counsels for the parties and after perusing the applications, I am of the view that applicant has made out sufficient cause for condonation of delay and for substitution in place of Late Budh Ram. It is a matter of record that 'Rule' was issued in the writ petition on 04.04.2011 and the matter was placed in the Regular List. There being no date, the status of the petition was unknown to the applicant and this was also on account of the fact that Late Budh Ram expired on 25.07.2014 followed by the death of the counsel also, who was handling the matter.



Seen holistically, applicant cannot be completely blamed for the delay. Accordingly, the applications are allowed. The delay is condoned and applicant is substituted as a Petitioner in place of late Budh Ram, subject to all just exceptions, subject however to payment of cost of Rs.20,000/- in favour of Delhi High Court Bar Association Library Fund, UCO Bank, Delhi High Court Branch, Account No. 15530100046108, within a period of six weeks from the date of receipt of the order.

5. Applications stand disposed of.

CM APPL. 30991/2024

6. In view of the order passed in CM APPL. 29373/2023, it is clarified that the cost of Rs.15,000/- as directed vide order dated 15.02.2024 be paid to newly substituted Petitioner, namely, Ganesh.

7. Application stands disposed of.

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8. Amended memo of parties has been filed and is taken on record.

9. During the course of hearing, it transpires that Petitioner has claimed relief against the Delhi Jal Board, which is notified under Section 14 of the Administrative Tribunals Act, 1985 and therefore, by virtue of the said provision as well as judgment of the Supreme Court in *L. Chandra Kumar v. Union of India and Others, (1997) 3 SCC 261*, Central Administrative Tribunal will be the only Court of first instance to adjudicate this petition as the relief claimed is a 'service matter' as defined under Section 3(q) of the said Act. Ordinarily, this Court would have directed the Petitioner to withdraw this petition and approach the Tribunal afresh, however, considering the circumstance that this writ petition was filed in the year 2008, the same is transferred to the Tribunal to be listed before the learned



Registrar on 22.10.2024.

10. Registry is directed to transmit the entire record to the Tribunal.

JYOTI SINGH, J

SEPTEMBER 3, 2024

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