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

Date of decision: 26th SEPTEMBER, 2025

IN THE MATTER OF:

+ **LPA 304/2019 & CM APPL. 21402/2019, CM APPL. 21403/2019**

NORTH DELHI MUNICIPAL CORPORATIONAppellant

Through: Ms. Divya Swami, Standing Counsel
for MCD with Ms. Akriti Singh,
Advocates.

versus

WORKMEN

.....Respondent

Through: Mr. Varun Prasad and Mr. Manoj
Kumar, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT (ORAL)

SUBRAMONIUM PRASAD, J.

1. By way of the present appeal, the Appellant/NDMC seeks to challenge the Order dated 15.02.2019 passed by the Ld. Single Judge in CM APPL. 27517/2018 in W.P.(C) 8247/2002.

2. Shorn of unnecessary details, the facts leading to the filing of the present appeal are as under:

- a. Disputes arose as to whether the workmen of the Appellant working as *Malis* were entitled to the pay scale of Rs.210-290 revised to Rs.800-1150 at par with their counterparts working in CPWD/PWD or not.



- b. The Ld. Tribunal, on the basis of material before it and the Judgments passed by the Apex Court in Randhir Singh and Ors. vs. Union of India, 1982 [44] FLR 299 and Nain Singh Bakhuni vs. Union of India and Ors., 1988 II LLJ 633, vide its Award dated 21.11.2001 held that the workmen of the Appellant are entitled to the same pay scale as being paid to their counterparts working in CPWD/PWD. The said Award dated 21.11.2001 was the subject matter of W.P.(C) 8247/2002 from which the present appeal arises. The said writ petition was dismissed in default by the Ld. Single Judge vide Order dated 17.12.2013.
- c. After about three years, an application being CM APPL. 5230/2017 was filed by the Appellant seeking restoration of the writ petition W.P.(C) 8247/2002. The said application was listed on 10.07.2018 which was again dismissed in default by the Ld. Single Judge vide Order dated 10.07.2018.
- d. Thereafter, the Appellant filed an application being CM APPL. 27517/2018 seeking restoration of CM APPL. 5230/2017 which was filed by the Appellant seeking restoration of the writ petition. The said application being CM APPL. 27517/2018 was dismissed by the Ld. Single Judge vide Order dated 15.02.2019 by stating that there is no ground in the application for restoring CM APPL. 5230/2017.
- e. It is this Order dated 15.02.2019 passed by the Ld. Single Judge which is under challenge in the present appeal.
3. The short contention of the learned Counsel for the Appellant is that the Impugned Order dated 15.02.2019 dismissing the CM APPL. 27517/2018 seeking restoration of CM APPL. 5230/2017 is an unreasoned



Order.

4. The Impugned Order dated 15.02.2019 is an unreasoned Order. However, in view of the fact that the dispute pertains to *Malis* of the Appellant who have been agitating their grievances since 1996, this Court has gone through the records of the case to take a view as to whether the grounds given in the application for restoration of writ petition itself are proper or not.

5. The writ petition being W.P.(C) 8247/2002 was dismissed in default by the Ld. Single Judge on 17.12.2013. With a delay of 1079 days, the Appellant, thereafter, filed an application being CM APPL. 5230/2017 seeking restoration of the writ petition. The entire application is being reproduced below:

"1. That the aforesaid writ petition was filed by the erstwhile unified municipal Corporation of Delhi. Since then the corporation has been trifurcated and the North Delhi municipal Corporation has stepped into the shoes of the erstwhile petitioner.

2. That the aforesaid writ petition was pending disposal before this honourable Court and the same had been admitted to the regular board for hearing.

3. That despite all the due diligence, it so happened that the matter was listed on 17th of December 2013 and the case went unnoticed by both the parties. It appears that the case was listed and since none appeared from either side, the same was dismissed in default.

4. That it was only recently when it came to the notice of the horticulture Department of the applicant/Corporation that the matter had been



dismissed in default in the year 2013.

5. That immediately directions were issued to the counsel to move an application for Restoration of the writ petition as the matter involved is going to have big financial impact on the entire Corporations.

6. That accordingly the present application is being moved before this hon'ble Court praying for the restoration of the writ petition puts original position so that the matter could be heard on merits.

7. That it is only due to the inadvertent mistake of the Council that the present petition has been dismissed in default. No prejudice would be caused to either parties if the matter is restored to its original position and heard on merits.

8. That the non appearance of the Counsel or the officers of the corporation was neither intentional nor will but because of the fact that the matter had been admitted on the regular board in the year 2008 and ever since then the matter had not been listed for regular hearing.

9. That even otherwise it would be in the interest of the Justice to hear and dispose of the matter on the merits and law rather than the same being disposed of summarily due to mistake of the counsel.

PRAYER

It is therefore most respectfully prayed that the present writ petition may kindly be restored to its original position by setting aside the orders dated 17 December 2013 whereby the present writ petition had been dismissed and any other or further order this honourable Court might deem fit and proper may also



be passed."

6. Under the Delhi High Court Rules, the time to file an application for restoration of a petition is 30 days from the date of the dismissal Order.

7. A perusal of the aforementioned application does not give any reason as to why the application for restoring the Writ Petition was not filed immediately within 30 days after the writ petition was dismissed by the Ld. Single Judge on 17.12.2013. Other than stating that when it came to the notice of the Department that the petition has been dismissed, the application for restoration of writ petition was filed, which is not a sufficient reason to explain the delay.

8. It is well settled that law of limitation is based on public policy. Stale matters cannot be permitted to be revived without there being any proper explanation whatsoever and that too by a Government Department. Undoubtedly, Courts have adopted a liberal approach in construing the phrase 'sufficient cause' used in Section 5 of the Limitation Act in order to condone the delay, to enable the Courts to do substantial justice and to apply law in a meaningful manner which subserves the ends of justice, however, the 'sufficient cause' has to be explained properly. Howsoever, liberal approach is adopted in condoning the delay, and existence of 'sufficient cause' for not filing the application for restoration in time, is a condition precedent for exercising the discretionary power to condone the delay. The Apex Court has always held that phrases 'liberal approach', 'justice-oriented approach' and cause for the advancement of 'substantial justice' cannot be employed to defeat the law of limitation so as to allow stale matters or as a matter of fact dead matters to be revived and re-opened by taking aid of



Section 5 of the Limitation Act. The Apex Court has, time and again, held that while construing ‘sufficient cause’ in deciding an application filed under Section 5 of the Act, on the expiry of the period of limitation prescribed, a substantive right in favour of other party accrues and that right ought not to be lightly disturbed and that the liberal approach in considering sufficiency of cause for delay should not be allowed to override substantial law of limitation. Liberal Approach cannot be permitted to jettison the substantial law of limitation. Where negligence, inaction or lack of bona fide is writ large, Courts must loathe to condone the delay. No Court can be justified in condoning the inordinate delay of 1079 days without there being sufficient cause to condone the delay. In “Pathapati Subba Reddy (Died) By L.Rs. and Others vs. Special Deputy Collector (LA)”, [2024 SCC OnLine SC 513], the Apex Court has observed as under:

26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;



(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.

9. Undoubtedly, the present appeal has been filed only against an Order dismissing an application for restoration of the writ petition without recording any reasons. However, in view of the fact that since the matter pertains to workmen, who are *Malis*, the Award was passed way back in the year 2001, and accepting the statement given by the learned Counsel for the



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Respondent/workmen that most of the workmen have already taken the benefit of the Award, this Court is not inclined to interfere with the Impugned Order 15.02.2019 passed by the Ld. Single Judge even though it is an unreasoned Order.

10. Resultantly, the appeal is dismissed. Pending applications, if any, are disposed of.

SUBRAMONIUM PRASAD, J.

VIMAL KUMAR YADAV, J.

SEPTEMBER 26, 2025

S. Zakir