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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgement reserved on: 08.10.2025***Judgement delivered on: 29.10.2025***

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LPA 620/2015

GOVT OF NCT DELHI

.....Appellant

Through: Ms. Jyoti Tyagi, Advocate

versus

GOVT SCHOOL TEACHERS ASSOCIATION (MIGRANTS)
REGD & ORS.RespondentsThrough: Mr. Rajshekhar Rao, Senior
Advocate with Ms. Mansi
Sood, Mr. Areeb Amanullah,
Ms. Vishakha Gupta and Ms.
Khushi Gupta, Advocates for
Review Petitioner**CORAM:****HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR****J U D G E M E N T****HARISH VAIDYANATHAN SHANKAR J.****REVIEW PET. 268/2023 & CM APPL. 51819/2023 (for
condonation of delay in filing the Review Petition)**

1. The present Review Petition seeks review of the **Judgment and Order dated 23.05.2018¹** passed by this Court in LPA 620/2015. By the said Judgment, this Court had passed various directions *inter alia*, the regularization of the members of the Review Petitioner-Association, fitment of the regularized teachers in the lower scale of pay prescribed for the post held by them w.e.f. 01.01.2009, along with

¹ Impugned Judgement



the annual increments in that grade for the intervening years. The **Government of NCT of Delhi**² was further directed to make the necessary calculations in line with the directions passed by this Court and make the necessary payments, and extend such pensionary and terminal benefits as per their entitlement.

2. The Judgment of which review is sought herein was challenged by the GNCTD by way of two Special Leave Petitions being S.L.P.(C) 23784/2018 & S.L.P.(C) 28452/2018. The said SLPs came to be dismissed on 26.10.2018 by a common Order. Post the dismissal of the said SLPs, the GNCTD passed various Circulars and Orders seeking to implement the Judgment dated 23.05.2018, some of which are annexed to the present Review Petition and are dated 14.12.2018, 23.01.2019, 17.05.2019, 03.10.2019, 19.11.2019 and 15.09.2021.

3. The short issue raised for the consideration of this Court is as to whether the Review for the grounds as set out in the present Review Petition and the accompanying application seeking condonation of delay in filing the said Review Petition, merit exercise of the discretionary jurisdiction of this Court for the purposes and reliefs as set out therein, *namely*, that of pay fixation of the regularized teachers from the date of their respective appointments instead of 01.01.2009 as fixed by this Court while passing the Judgment dated 23.05.2018.

CONTENTIONS OF THE REVIEW PETITIONERS :

4. Mr. Rajshekhar Rao, learned Senior Counsel appearing on behalf of Review Petitioner-Association would contend that:

(i) There is an error apparent on the face of the record since the Impugned Judgment has granted the relief of regularization of the

² GNCTD



teachers from the date of their appointment but as directed, the pay fixation only from 01.01.2009 and such a date, in his opinion, is perhaps arbitrary or at best, based on the passing of the **Right of Children to Free and Compulsory Education Act in India, 2009**³ and which, according to him, would result in great injustice being caused to the members of the Review Petitioner-Association.

(ii) The other plaintive plea canvassed by the learned Senior Counsel for the Review Petitioner-Association would purely be an equitable one and, in support of the same, he would copiously refer to the portions of the Impugned Judgment which sets out the tumultuous history of the Kashmiri migrants. He would thus contend that, considering the various difficulties and hardships that have been endured by the members of the Review Petitioner-Association, they would be required to be granted the equitable relief of pay fixation from the date of their appointment.

CONTENTIONS OF THE GNCTD:

5. *Per contra*, learned counsel for the GNCTD would contend that the Review Petition is hopelessly barred by limitation and there are no grounds made out for this Court to exercise its discretionary jurisdiction in condoning the delay. Learned counsel for the GNCTD would also contend that there is clearly no error apparent on the face of the record meriting any interference by this Court.

ANALYSIS:

6. We have heard learned counsel for the parties and, with their able assistance, perused the records and the Judgment dated 23.05.2018 of which, the present review has been sought.

³ RTE Act



7. With a heavy heart, this Court declines the plea of the Review Petitioner-Association for condoning the delay in filing of the Review Petition. The reasons for such are as follows:

- (i) We would first advert to the grounds as averred in the application seeking condonation of delay, which read as follows:

“...

3. That the cause of action for the accompanying Application only arose on 10.01.2023 when the Petitioner/Directorate of Education declined to correct the error/anomaly in the Impugned Judgment in their implementation of the directions passed by this Hon'ble Court. Prior to this, the KMT could not have known that this error was incapable of being corrected by the Petitioner herein through an executive decision, despite due diligence, as the Impugned Judgment was yet to be implemented in practice. However, the Respondent No. 1 was unable to file the accompanying Application even within 30 days from 10.01.2023 as they did not want to lose the benefit of the Impugned Judgment which was attained after a long and difficult battle spanning more than a decade and involving nearly two hundred individuals, many of whom had retired several years ago. Consequently, in addition to the time taken to coordinate between the various KMT, including those who had previously retired, the Respondent No. 1 had several internal discussions to evaluate the consequences of approaching this Hon'ble Court between 10.01.2023 and the filing of the accompanying Application. Ultimately, it was felt that this Hon'ble Court is the last resort for ensuring complete justice and therefore, it was decided to approach this Hon'ble Court with folded hands.

4. Therefore, the cause of action to prefer the present Application ought to be taken as 10.01.2023 and if reckoned from this date, the present Application suffers from a delay of 238 days.

5. In the alternative and without prejudice to the above, it is submitted that the accompanying Application could not be filed within 30 days from the Impugned Judgment as the KMT were unable to fully appreciate the actual impact of the error/anomaly in the Impugned Judgment at that time.



8. It is humbly prayed that the delay in approaching this Hon'ble Court has not been intentional in any manner, and it is only in view of the inability to resolve this anomaly and the clear stance now taken by the DoE in 2023 that it cannot resolve the same, that the Respondent No. 1, on behalf of the KMT, is constrained to approach this Hon'ble Court at this stage and seek its indulgence in removal of the anomaly in the Impugned Judgment."

(ii) We also consider it to apposite to extract the relevant grounds from the Review Petition which read as follows:

"...

B. Because there is a bona fide error in the Impugned Judgment which requires review, in so far as this Hon'ble Court, while granting regularization of service and all other service benefits to the KMT from their date of initial appointment, has erroneously granted them fixation of pay only from 01.01.2009;

C. Because the actual impact and magnitude of this error was only discovered by the Respondent No. 1/Applicant herein, on or about 10.01.2023 when it became apparent that this error was incapable of being corrected by the Petitioner herein through an executive decision. Until then, neither had the directions contained in the Impugned Judgment been implemented and nor had the Petitioner declined to correct this error/anomaly in the Impugned Judgment;

E. Because it is well-settled that ordinarily all benefits flowing from regularization of appointment, including monetary benefits, ought to be extended to the employees who were earlier denied the same and that fixation of pay cannot be separate from fixation of seniority so as to result in senior employees being worse off than their juniors with later dates of appointment;

F. Because this Hon'ble Court, after considering the facts of the matter and in light of applicable legal principles, had rightly concluded in the Impugned Judgment that the KMT were entitled to all service benefits for the entire duration of their service, and despite recognizing this, it erroneously granted fixation of pay only from 01.01.2009, while granting all other service benefits to the KMT from the date of their initial appointment;

G. Because the date of regularization/ appointment of the KMT being different from their date of fixation of pay has resulted in an anomalous situation wherein they have been granted seniority from their date of appointment but are



only entitled to pay fixation from 01.01.2009, thereby making them worse off than their juniors who were appointed after their date of regularization/ appointment;

H. Because it is unfair and arbitrary for the KMT to be deprived of nearly 15 years' worth of monetary benefits on account of such an anomaly/ bona fide error in the Impugned Judgment, despite judicial recognition from this Hon'ble Court that they have rendered service at par with regular employees right from the beginning of their tenure, and deserve to be adequately compensated for the same;

I. Because despite the spirit of the Impugned Judgment passed by this Hon'ble Court being to do full and complete justice for the KMT, in view of the difficulties and injustices faced by them, the existence of this anomaly in their date of fixation of pay has prevented them from getting full justice even after 25 years and this Hon'ble Court alone has the power to correct this anomalous situation;

J. Because the KMT were not in a position to appreciate the impact of the anomaly in the Impugned Judgment until their service was regularized and other service benefits were actually granted to them, as it is only then that they could appreciate the significance of the financial impact caused by it;

K. Because it is only after receiving the response of the Directorate of Education, Govt. of NCT Delhi which expressed its inability to rectify the anomaly in the Impugned Judgment that the KMT were able to realise that they could not get relief without seeking the indulgence of this Hon'ble Court;

L. Because the failure to rectify this anomaly of different dates of fixation of pay vis-à-vis regularization of appointment/seniority will have a significant and adverse impact on the ability of the KMT to avail the full benefits of the long service already rendered by them, especially in terms of their entitlement to a higher scale of pension on this account;”

(emphasis supplied)

8. As is manifest, the members of Review Petitioner herein have accepted the Judgment of this Court dated 23.05.2018 in its entirety. We say so since the averments in the Review Petition, as well as the application seeking condonation of delay which accompanies it, clearly acknowledge the correctness of the said Judgment, *albeit*, with



reservations as regards the pegging of the date of pay fixation as on 01.01.2009.

9. We are also of this view for the reason that the Review Petitioner-Association seeks to contend that they were unable to comprehend the impact of the Judgment dated 23.05.2018 till as late as 10.01.2023, which, to our mind, does not appear to be either reasonable or justified. Clearly, the members of the Review Petitioner-Association are educated persons who are all part of the body of such persons, tending to be one of the noblest professions, that of educating people. An educator cannot profess to be unaware of the express contents of a Judgment which clearly came to be passed with complete knowledge of all the members of the Review Petitioner-Association.

10. We also take note of the fact that throughout the litigation, the Review Petitioner-Association had access to and the opportunity of taking advice from extremely competent people and counsel, including that of Senior Advocates.

11. We also take note of the fact that the Judgment of which review is sought herein faced a challenge by way of two SLPs, and the order-sheets of the same reflect that the Review Petitioner-Association was ably represented by learned Senior Counsel. The two SLPs came up on two separate dates and were dismissed by a common Order dated 26.10.2018, and on no occasion were the Review Petitioners unrepresented.

12. We also take note of the fact that the GNCTD by various Circulars and Orders, as already enumerated hereinabove, sought to implement the Judgment dated 23.05.2018 passed by this Court. Based on these Circulars and Orders, the members of the Review



Petitioner-Association were mandated to complete documentation in order to establish their entitlement to the benefits that flowed from the said Judgment.

13. It is also an admitted fact that the members of the Review Petitioner- Association have already been beneficiaries of the directions passed in the said Judgment. At no point in time, from the passage of the Judgment till as late as 04.05.2022, was there any protest or representation made against the Judgment. In fact, even the Representation dated 04.05.2022 does not raise any grievance as against the Judgment impugned herein, but states that there is an anomaly in the implementation of the said Judgment.

14. We are of the firm view that the Review Petitioners cannot blow hot and cold and are estopped from raising any grievance as respects the Judgment after its members having accepted the benefits of the Judgment.

15. We are also of the firm view that such an inordinate belated attempt to seek a review of a Judgment is clearly against general principles that govern the discretionary power of this Court in condoning the delay, especially in cases of review petitions, which by law generally have a shorter time period prescribed in respect of any challenge placed before Courts.

16. We, in particular, would refer to the Judgment of the Hon'ble Supreme Court in the case of ***Pathapati Subba Reddy (Died) By L.Rs. and Others v. Special Deputy Collector (LA)***⁴.

17. The relevant paragraph of the same is reproduced herein for the sake of brevity:

“23. In Basawaraj v. Special Land Acquisition Officer⁸, this Court

⁴ 2024 SCC OnLine SC 513



held that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case. The expression ‘sufficient cause’ as occurring in Section 5 of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bona fide is writ large. It was also observed that even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds.

25. This Court in the same breath in the same very decision vide paragraph 15 went on to observe as under:

“15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

(emphasis supplied)

“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 facts 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.”

(emphasis supplied)

18. The said Judgment of the Hon’ble Supreme Court is extremely lucid insofar as it sets out the manner and circumstances in which delay should be condoned by Courts. As is also apparent from the reading of the Review Petition as well as the application seeking condonation of delay, *prima facie*, the main ground that is espoused in support of the condonation of delay is an equitable one which has been clearly negated by the judgment rendered by the Hon’ble Supreme Court in ***Pathapati Subba Reddy (supra)*** in Para 23 as reproduced herein above.

19. In view of the afore-stated facts, circumstances and position of law, we are unable to accede to the request of Review Petitioner-Association for condoning the delay and entertaining the present Review Petition.

20. In view of the above, the application seeking condonation of delay of 1246 days in filing of the Review Petition is dismissed, and consequently, the Review Petition also stands dismissed.



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21. The present Review Petition, along with pending application(s), is disposed of in the aforesaid terms.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
OCTOBER 29, 2025/rk/va