

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 7688 OF 2022
(Arising out of SLP (C) 8059/2019)

KRISHAN LAL (DECEASED) & ORS.

Petitioner(s)

VERSUS

NEW DELHI MUNICIPAL COUNCIL

Respondent(s)

O R D E R

Leave granted.

Feeling aggrieved and dissatisfied with the impugned judgment and order dated 07.01.2019 passed by the High Court of Delhi at New Delhi in Writ Petition No. 3287 of 2013 by which the High Court has erroneously allowed the said writ petition preferred by the New Delhi Municipal Council [for short 'the NDMC'] and has set aside the order passed by the Central Administrative Tribunal [CAT] passed in O.A. NO. 1583 of 2010 by which the learned Tribunal has directed the NDMC to grant the benefit of pay-scale, as per the recommendations of the Shiv Shankar Committee Report, the employees-original applicants (3 in number) have preferred the present Appeal.

We have heard Mr. Braj K. Mishra, learned counsel appearing for the appellant and Mr. Yoginder Handoo, learned counsel appearing for the respondent-NDMC.

From the impugned judgment and order passed by the High Court, the High Court has quashed and set aside the orders passed by the learned Tribunal passed in O.A. No. 1583 of 2010 and the order rejecting the review applications mainly on the ground that there was delay and laches in approaching the Tribunal for adjudicating the issue with respect to pay-scales and that there was a subsequent decision of the Delhi High Court in the case of New Delhi Municipal Council vs. Kaneya Lal & Ors. [WP (C) No. 11841/2004 decided on 17.09.2004] which was against the appellants.

However, it is required to be noted that, in the earlier round of litigation, as such, the appellants-original applicants succeeded before the Tribunal in O.A. NO. 1053 of 2009 and the Tribunal directed the NDMC to grant the benefit of the pay-scales as recommended by the Shiv Shankar Committee Report, vide common judgment and order dated 15.01.2009. That, thereafter, the case of the applicants for higher pay-scales came to be considered and the benefit was allowed, however, with effect from 01.04.1998 and even the actual benefit was held payable from 31.10.2001 only. The said benefit was granted in the year 2010 which was the subject-matter of O.A. before the Tribunal by way of O.A. No. 1583 of 2010.

In that view of the matter, there was no delay and laches at all.

Now so far as the decision in the case of *Kaneya Lal (supra)* which has been considered and relied upon by the NDMC before the High Court is concerned, it is required to be noted that the decision in the case of *Kaneya Lal (supra)* was subsequent to the

decision in the case of P.P. Garg & Devender Saroop vs. NDMC & Ors. [WP (C) No. 4805/1997] The decision in the case of P.P.Garg (supra) was not considered by the Tribunal/High Court in the case of Kaneya Lal (supra). From the judgment and order passed by the Tribunal, it appears that other similarly situated employees were granted the benefit of higher pay-scales and only these three applicants were left out. Once, as such, there was a decision of the competent Court in the case of an employee holding that he is entitled to the higher pay-scales, as such, being a model employer, the NDMC ought to have granted the similar benefit to the similarly situated employees and ought not to have insisted for individual orders. The aforesaid would ultimately increase the litigation. Be that as it may, the impugned judgment and order passed by the High Court is unsustainable both, on law as well as on facts.

In view of the above and for the reasons stated above, the present Appeal succeeds. The impugned judgment and order passed by the High Court is hereby quashed and set aside and the judgment and order passed by the learned Tribunal is hereby restored.

The present Appeal is, accordingly, allowed. No costs.

..... J.
(M.R. SHAH)

..... J.
(M.M. SUNDRESH)

New Delhi;
October 19, 2022.

ITEM NO.9

COURT NO.5

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 8059/2019

(Arising out of impugned final judgment and order dated 07-01-2019 in WPC No. 3287/2013 passed by the High Court Of Delhi At New Delhi)

KRISHAN LAL (DECEASED) & ORS.

Petitioner(s)

VERSUS

NEW DELHI MUNICIPAL COUNCIL

Respondent(s)

IA No. 72071/2019 - APPLICATION FOR EXEMPTION FROM FILING TYPED DOCUMENTS

IA No. 72062/2019 - CLARIFICATION/DIRECTION

IA No. 51025/2019 - PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 19-10-2022 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s) Mr. Braj Kishore Mishra, AOR
Mr. Abhishek Yadav, Adv.

For Respondent(s) Mr. Yoginder Handoo, AOR
Mr. Ashwin Kataria, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Delay in filing Substitution Application is condoned.
Abatement is set aside.

Application for Substitution is allowed.

Leave granted.

The present Appeal is allowed in terms of the signed order.

Pending applications stand disposed of.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(RENU BALA GAMBHIR)
COURT MASTER (NSH)

(Signed order is placed on the file)

